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THE EFFECTS OF THE SOCIAL SECURITY TAXES UPON BUSINESS

T. C. ROOT
Texas Technological College

The Social Security Act is a direct legislative effort to alleviate the principal causes of insecurity in our economic life by providing payments for unemployed persons and persons over 65 years of age. To provide funds for these payments the Act levies three taxes: an income tax on laborers' wages and an excise tax on employers' payroll for old age benefits, and an excise tax on employers' payroll for unemployment compensation. While these are the only taxes levied by the Act, it is important to mention the general revenue taxes of the federal and state governments, since large sums must come out of general taxation to help administer and support the Act.

The tax is the most far reaching and comprehensive tax measure ever enacted by Congress. It reaches down into the lowest level of incomes and takes a flat percentage of them, regardless of size. With the exception of the tax on incomes over \$500 during the Civil War, the lowest level reached by the income tax heretofore has been incomes over \$1000 for single persons, and incomes over \$2000 for others during 1917. The social security tax must be paid by all alike, regardless of size of income, except by those in the exempted occupations.

In the first 14 months the Treasury receipts from social security taxes were \$1,662,000,000. The revenue amounted to about \$118,000,000 per month, over \$4,500,000 per working

day, or wages for 900,000 at \$5 per day. Of this revenue, \$1,277,516 was paid out for old age pensions in lump sums of from 10c to \$350 to 53,237 claimants, averaging \$24 per person. These payments left a balance not spent for the purpose for which it was collected of \$1,500,000,000. Laborers and employers paid directly this much more than they received directly from the funds. This excess revenue was and is being spent for all the purposes for which the government needs money, or for retiring open market debt. The total annual yield will be larger than total receipts from corporation income taxes in normal years, and gradually increases. Not until near 1970 does the plan provide for old age benefits to the aged as large as the revenue from social security taxes.

The payroll taxes have now become an important source of government receipts, and the funds have financed the operating deficit of the Treasury and made possible an increase in the public debt without borrowing in the open market. Whereas, in 1936, more than half the new open market debt was taken by banks, in 1937 there was a decline in bank holdings of government securities of \$1,174,000,000, and a resulting contraction in bank loans and investments amounting to \$1,248,000,000.¹ During the same period the public debt was increasing in size. The plan itself, in providing for a reserve of \$47,000,000,000 to be invested in government bonds, permits an added deficit of the Treasury of \$47,000,000,000 without publicity.

If the budget is balanced, the revenues from social security taxes will be used to retire government bonds. Investment funds so liberated will either remain idle or seek other channels of investment. The tendency is toward lower interest rates, with bullish effects on high grade bonds.² Municipal, state, and high grade industrial bonds will be purchased by former investors in government bonds. The availability of investment funds may lead to an expansion of production, an increase in general economic activity, the expansion of credit, and inflation. However, the cost of the tax to the employer may be partially offset by the lowered cost of borrowed capital.

¹"Survey of Current Business" March, 1938. U. S. Dept. of Commerce.

²"Long Term Consequences of the Social Security Act," G. E. Escher, Jr. *Commercial and Financial Chronicle*, Dec. 4, 1937.

A deflationary aspect of the tax is seen in the compulsory saving by employees and employers of \$1,500,000,000 annually, money that might be spent for the products of agriculture and industry. The wage-earner is forced to save more than he has saved in the past. A great per cent of the total savings of Americans is by those receiving an income of more than \$3000 per year, while this tax is principally on incomes below that figure. In 1929 the savings of families with less than \$2000 per year income amounted to but 1.6 per cent of their earnings. By 1949 the laborer will be forced to save 3 per cent of his income, regardless of its size and irrespective of number of dependents. He will have less to spend.

Another deflationary aspect of this tax is that it may take more purchasing power than it puts back. Adam Smith said that a tax may take more out of the pockets of the people than it brings into the Treasury, because:³

1. Collection and administrative costs;
2. It may obstruct the industry of the people;
3. Frequent visits and odious examinations of the tax gatherers expose people to much unnecessary trouble, vexation, and oppression.

It seems that this social security tax meets especially well the specifications set forth by Adam Smith 160 years ago.

For the purpose of sampling the attitude of the employers of Texas toward the tax, a questionnaire was sent to 200 of them. Answers were received from 84 employers of 115,297 employees. The questions were composed in a conference of several members of the staff of the Department of Business Administration of Texas Technological College, and the purpose was to learn how the tax had affected employment, wages, profits, dividends, selling prices, business expansion, morale of the workers, and general business conditions.

To the question, "Has the tax kept you from adding men to your payroll?" 57 answered "no" and 20, "yes". To the question, "Has the tax caused you to reduce your labor force?" 61 answered "no" and 13, "yes". To the question, "Has the tax caused you to install labor-saving machinery?" there were 40 negative answers and 26, affirmative. Eighteen firms reported the installation of machinery costing an average

³*Wealth of Nations*, Book V, Ch. II, Part II (1776)

of \$13,240 per firm, while 9 firms reported the discharge of a total of 258 employees, an average of 28 2/3 per firm, on account of the installation of the machinery.

Seligman says, "The imposition of a tax on wages injures the workman both temporarily and permanently."⁴ The levying of a tax on any article inevitably tends to diminish the extent of its use, especially if there is an effective substitute for the taxed article. Machinery is an effective substitute for labor, and the shift from labor to machinery, within limits, is profitable to the manufacturer. While a low tax may have no effect, as a low tariff, a high tax may paralyze, as a high tariff.⁵ If the use of labor is diminished, the consequent reduced purchasing power of labor will affect business adversely.

There is a definite limit to the extent to which machinery can be used to displace labor and at the same time increase total employment. At best the tendency toward increased employment is a long run tendency, and many classes of labor do not shift readily from one occupation to another. Especially is there a limit if business men are studiously trying to reduce employment to avoid old age benefit taxes, and stabilizing employment at as low a level as possible to receive credit on their unemployment compensation tax. Much of the increase in employment credited to the machine age has been the result of discovery and development of labor-making industries, such as the automobile industry, and not to the mere introduction of labor-saving machinery into old industries. If there is a limit to increased employment from the introduction of machinery, then for whatever reason the machines are used to displace labor, the result is increased technological unemployment.

There is a limit, however, beyond which the introduction of machinery cannot go. Some processes have not yet been performed by machinery. In the cigarette, liquor, and petroleum industries, cost of production is about 10 per cent labor, while in the railroad, agricultural implement, and machine tools industries, labor accounts for from 40 to 50 per cent of the total production cost.⁶ The per cent of labor

⁴*The Shifting and Incidence of Taxation*, 1910 Ed., p. 370.

⁵*Facing the Tax Problem*, 20th Century Fund, p. 133.

⁶"How Shall Business Be Taxed?" Tax Policy League, Ch. II.

cost to total cost of production determines the burden of the tax, and those employers with the greatest per cent of labor cost to total cost have the greatest incentive to install labor-saving machinery. The tax favors those industries the nature of whose processes allows the substitution, and those which have the resources with which to purchase the machines. As investment funds change from government bonds to industrials, more capital is available for the acquisition of machinery.

To the question, "Has the tax caused you to reduce wages?" 72 answered "no" and only 1, "yes". To the question, "Has the tax kept you from raising wages?" 49 answered "no" and 25, "yes". If these answers are authoritative, then laborers have already felt the weight of their employers' tax, as well as their own, through lack of wage increases, and their purchasing power has been affected adversely. Laborers are forced to save the amount of their tax, whether they can afford to, or need to. Employers will feel the effect of this enforced saving in the reduced purchasing power of their customers. When individuals save, however, they expect to spend more in the future. But under this plan there may not be more spending in the future. A community as a whole cannot save, because no increased supply of goods and services is made available for the future,⁷ especially if the saving is in the form of a bookkeeping entry on the books of the Treasury.

To the question, "Has the tax reduced your profits?" 75 answered "yes" and only 2, "no." To the question, "What has been the most important effect on your business?" 33 out of 75 answers said either "increased operating costs," or "reduced profits." The immediate effect of the tax is the lowering of business profits. Ultimately the tax will be shifted to the consumer, hence to labor, for men will not stay in business unless their operations are profitable. The depression has prevented shifting of the tax to consumers because of resistance to increased prices, and labor has felt the resistance in loss of jobs.⁸ Many marginal business men may be forced out of business by the tax, which must be paid by them during

⁷"What of Social Securities Millions?"—Richard Elloyatt. *Nation's Business*, February, 1938.

⁸*How Shall Business Be Taxed?* Tax Policy League, Ch. XL.

depression or prosperity, and whether current operations show profit or loss.

To the question "Has the tax added to your accounting expense?" 71 said "yes" and 10, "no." Forty-five firms reported an average increased accounting expense of \$1,971 each, while 11 firms reported percentage increases of from 2 to 20, average 10.86 per cent increase in accounting expense. These increased costs mean reduced profits, but the expense no doubt represents employment of additional record keepers, or the purchase of additional bookkeeping machinery.

To the question "How much has the tax increased your total expense?" 31 firms reported increases ranging from .75 per cent to 7.0 per cent, an average of 2.68 per cent added to total expense. This is a small percentage, but the margin of profit in industry is small, and this additional tax expense, when added to extra accounting expense, might mean the difference between profit and loss. During 1936 and the first part of 1937 prices could be raised enough to absorb the extra expense. However, since that time the extra expenses have not been absorbed. Business profits should be measured over a term of years, instead of a single year, and according to official Statistics of Income, the aggregate net worth of all manufacturing corporations in the United States was reduced by 28 per cent from 1929 to 1935. During that same period, corporate surpluses were reduced over 33 per cent, or more than \$7,000,000,000. If the social security taxes had been in effect during that period, the reduction in surpluses might have been doubled. New capital in large amounts is needed for these industries to make up the heavy losses incurred during the depression and to attract new capital into them. Capital already invested must be permitted to earn a reasonable return. Their earnings are reduced by the amount of their tax, which depends on amount of payroll, rather than amount of profit.

Reduced profits have been reflected in reduced dividends, 50 out of 67 firms reporting this fact. Reduced dividends mean reduced purchasing power of stockholders, and difficulty in obtaining new capital, since lower profits are less attractive to prospective investors. Reduced profits also mean reduced employment and further reductions in purchasing power.

Twenty-eight firms said the tax had caused them to raise selling prices, while 44 said it had not. As stated previously, business conditions have prevented this tax being passed on to the consumer, just as they have caused reduced employment and reduced wages. As prices are raised to absorb the tax, consumer resistance will result in less purchasing and less production. Less production means higher production costs, especially to those firms which depend on large volume for profits. As the burden of the tax reduces production, the amount of tax per unit of product increases.

To the question "Has the tax caused you to abandon or postpone expansion?" there were 32 affirmative and 44 negative replies. To the extent that expansion has been impeded or prevented, capital purchases and further employment of labor have been curtailed. Expansion has been limited by the depression, no doubt, but if the social security tax has limited expansion, it has helped bring about the depression. To the question, "Did the tax help cause the present recession?" 30 out of 61 answered affirmatively.

Forty-eight out of 72 employers said they did not believe pensions or unemployment benefits would stabilize business in the future. Stabilization is supposed to result from the purchasing power placed in the hands of pensioners after age 65, and from payments to unemployed persons during unemployment. Also, employers are supposed to try to stabilize employment so that they may receive credit on their unemployment compensation tax later. However, the employer, in his effort to stabilize employment, will be slow to employ and slow to re-employ. Unemployment benefits can give unemployed workers security for short periods only, periods which might be normally adequate for them to find work, but not for prolonged periods of depression. Weekly benefits, lasting from 12 to 28 weeks in the various states, will not prove a reservoir of purchasing power which will measurably stabilize business. Prosperity rests upon a continued high level of consumer purchasing power.

"But purchasing power derived from payments out of an unemployment insurance fund is not the kind of purchasing power in anticipation of which new construction will be undertaken. Nor does the receipts of unemployment benefits constitute any basis of credit such as is almost universally used

in the purchase of durable consumption goods. This can be provided only by the comparative certainty of continued employment at wages sufficiently high to permit savings and a margin above what is required for necessary consumption goods and rent."⁹

Furthermore, in every country which has tried unemployment insurance the plan has failed, and direct benefit payments on the basis of need have been substituted. There is no actuarial basis for computing costs of unemployment insurance during extended depressions, when benefit payments must increase and tax receipts decrease.

In an article in *Business Week*, January 1, 1938, entitled "Will Job Insurance Go Broke?" computations were made of the "staying power" of the unemployment funds built up by the various states under the plan. It was estimated that if the funds paid only minimum benefits (\$5 or 3/4 of the weekly wage, whichever is lower) the funds would be used up as follows:

Of 22 funds, 1 would go broke in 48 weeks if a 20% call for relief;
1 would go broke in 24 weeks if a 30% call for relief;
1 would go broke in 16 weeks if a 40% call for relief;
1 would go broke in 12 weeks if a 50% call for relief.

To the question "Has the plan affected the morale of your laborers?" 36 answered "no", 16 answered "unfavorably", and 14, "favorably". Thirty-one employers said their workers resented the tax on their wages, and 43 said their workers did not resent the tax. To the extent that the tax and the plan affect the morale of laborers unfavorably, business is affected by lowered labor efficiency, higher costs, and reduced profits, with further incentive to reduce the scale of operations and to install labor saving devices, all this resulting in decreased employment.

There is a danger that there will be a decrease in incentive for the lower paid groups of laborers to become independent. A worker earning \$50 per month for 25 years will receive an annuity of \$25, or 50 per cent of his former salary, while a worker earning \$250 for the same period will receive only 25 per cent of his former salary. The lower paid groups, which are most likely to be dependent on their pensions, get

⁹"Social Legislation and Business"—Chas. Denby, Jr., Address to U. S. Chamber of Commerce, April 30, 1935.

the largest proportionate pensions, hence have the least incentive to become independent. Although saving is compulsory in all included occupations, the prosperity of the nation will be affected adversely if all persons over 65 spent only the amount of their pensions, for in every case the annuity is less than the previous salary, and in no case is it over \$85 per month.

Unemployment benefits, by removing the severest penalty of joblessness, remove the strongest incentive to seek a job. Thirteen answers to the question "What is the main weakness of the plan?" were "Demoralizing to workers". One employer said: "The plan makes benefits available to those who will abuse the privilege, all at a tax on industry." Another said: "Any measure which develops in any considerable portion of our population the feeling that they are no longer personally responsible for their own well-being, is bad medicine."

To the question "Did you have a private pension plan?" 15 answered "yes", 8 that they had abandoned their plans, and 7 that they had not. The tax did not represent an added expense if a private plan were already in effect if the company's payments to the private plan were as much as the social security tax. To the extent that private plans are abandoned, employers are deprived of a valuable means of getting and keeping the good will of their employees, reducing labor turnover, and improving the morale of their organizations.

Fifty-seven employers of 25,587 employees, averaging 449 per firm, paid a total tax of \$783,096, an average of \$13,783.53 per firm, or of \$30.60 per employee. This amount, \$783,096, is equal to 6 per cent income on an investment of \$13,051,150, if invested in labor saving machinery. It is equal to 26,103 weeks wages at \$30 per week, or employment for 652 men for 40 weeks. The 652 men represent 2.55 per cent of the employees reported in the questionnaires. With a payroll tax of 2 per cent for old age pensions, and 3 per cent for unemployment compensation, the effect on purchasing power is the same as if 5 men out of each 100 were unemployed. Thirty-three firms reported an increase in total annual taxes ranging from 11 per cent to 150 per cent, an average increase of 51 per cent on account of social security taxes.

There has been at least one important tax levied by Congress each year since 1932, when exemptions to the income

tax were lowered and surtaxes raised. In addition to old-age benefit and unemployment insurance taxes, there were further increases in rates and in the multiplicity of state and local levies. Under the present plan, by 1980 the so-called reserve will have reached the size of \$47,000,000,000. Beginning that year, the estimated interest on the reserve which the government will pay is \$1,406,000,000. This interest payment must be met by additional taxation to yield almost as much revenue as now being received from old age pension taxes. The business man knows that as long as the budget is unbalanced, there must be additional revenues, and he wonders what tax will be next.

In the policies advocated by the Chamber of Commerce of the United States are these statements: "The combined expenditures of federal, state, and local governments now demand so great a proportion of the total national income that they discourage business, threaten the security of wages and savings, and retard employment.

"Mounting tax rates tend to destroy incentive to invest funds in private enterprise and thereby diminish the sources on which the government must rely for future revenues."

A Declaration of Principles by a group of Democratic and Republican Senators was published in a recent issue of the *United States News*. Among the principles declared was this: "Assurance is needed of no higher taxes. The spread of price between producer and consumer is partially due to taxes which amount to at least 1/4 of the national income."

It is the constant accumulation of the tax burden which brings the complaint from the average business man. In spite of new taxes which have raised revenues from \$2,000,000,000 to \$6,000,000,000 from 1932 to 1937, there has not been enough revenue any one year to pay the expenses of the government. The business man cannot understand why, if the government is unwilling to levy taxes enough to pay the current cost of government, it should tax more than enough to pay the current cost of social security, thereby pressing upon business and employment more than seems necessary.

Social insurance should reduce the excessive penalties of economic failure, but it should not reduce economic incentive. If the penalty of failure is reduced too much, those we seek to help may become permanent burdens on society. If the

cost of social insurance is too burdensome, we may too greatly reduce the incentive to economic success. "There is danger of a program which may collapse of its own weight, meanwhile retarding or disrupting the very processes of production on which we must ultimately depend for such a program. It would be not only ironic, but tragic, if, in too sanguine efforts to insure the economic security of some of our citizens, we imperil the economic security of all of them."¹⁰

The clamor for reduction in the reserve may result, not in reduction of the tax, but larger benefits for pensioners. This possibility, coupled with the knowledge that at least a part of the social security cost must be paid out of general revenues from other taxes, and the fear of further tax increases later as pensions exceed original estimates, is extremely depressing to business.

Continued opposition to this and other taxes may, however, bring about a downward revision of taxes and a reduction in government expenditures. This would be the healthiest effect which could possibly flow from the social security tax.

¹⁰"An Appraisal of the Federal Social Security Act"—Address by W. W. Aldrich before the Institute of Public Affairs, University of Virginia, Charlottesville, Va., July 10, 1936.

THE MERCHANT SUTLER IN THE PRE-CIVIL WAR PERIOD

LEWIS E. ATHERTON

University of Missouri

The sutler has generally been classed in the field of military history because he was an integral part of army organization. Although he did receive military protection, he was a civilian and his chief function was merchandising. Thus, there are valid grounds for considering his work as simply a specialized form of mercantile endeavor. Such an approach centers attention on the similarities and differences between sutlers and regular merchants and thereby offers a measuring stick to indicate the unique features of the sutling trade. The comparison is particularly revealing when applied to those doing business in the western states and at frontier outposts.

Sutlers were maintained at army posts and in some cases with troops on the march to supply soldiers with articles that were not issued as a regular part of army rations. The quartermaster's department of course provided clothing and food, but the individual soldier had to purchase his simple luxuries and other wants from the sutler's stock of goods. In this way the mercantile function was extended on beyond the line of frontier settlement.

There was little similarity in the manner in which sutlers and the regular western storekeepers entered the mercantile field. Approximately half the regular mercantile class in the West began as clerks for older men, and by frugality and hard work finally succeeded in establishing independent stores. If those who combined agriculture with merchandising in their early years are added to the list, it is possible to account for three-fourths of the storekeepers. Another fifteen per cent entered merchandising directly from agriculture, and a few were former hotel keepers, skilled artisans, or day laborers. Less than ten per cent inherited sufficient wealth to be of appreciable help, and less than one per cent were sufficiently wealthy from inheritance to open business solely on such

capital.¹ In other words, the regular mercantile class came up from the ranks and was fully conversant with the business problems of the West.

On the other hand, sutlers, except in the Civil War period, were generally appointed by the Secretary of War and received their positions through politics. In 1839 the nomination of sutlers was vested in the councils of administration at the various forts, commanding officers being requested to transmit the record of the post's choice to Washington for action by the Secretary of War. Men chosen under the new system were to hold office for three years and to be eligible for reappointment if they proved satisfactory.² The Democrats were in danger of losing an election to the Whigs and so preferred to end the political method of choice; but the Whigs knew the answer to that move, and in 1843 the old system was put back in force for a time.³

The records of the War Department contain many letters urging changes on the basis of political expediency. Jackson's election in 1829 brought applications from party men anxious to profit from the victory. One Jackson supporter had been sutler at Fort St. Philip from 1825 to 1829, the original appointment also giving him the right to supply the workmen who were erecting Fort Jackson. These two Louisiana posts were located close together and one man could easily serve both. Almost immediately after his appointment, however, the Jackson supporter had lost his right to the trade at Fort Jackson, the most lucrative part of his contract. Jackson's victory gave the sutler an opportunity to air his grievances, and as soon as the new administration was organized he

¹These figures are based on a study of one hundred and forty mercantile biographies taken from biographical encyclopedias for the states of Missouri, Iowa, Illinois, and Wisconsin between 1830 and 1860. Later references to the regular mercantile classes will be based on the following—Lewis E. Atherton—"James and Robert Aull—A Frontier Missouri Mercantile Firm", *Missouri Historical Review*, XXX (October, 1935), 3-27; and "The Services of the Frontier Merchant", *Mississippi Valley Historical Review*, XXIV (September, 1937), 153-170.

²Order dated February 12, 1839, *General Order Book*, Vol. VIII, Old Records Division, Adjutant General's Division, War Department, Washington.

³Order dated October 25, 1843. This order was rescinded March 23, 1844. *General Order Book 1843-1845*.

explained his wrongs in a letter to the Secretary of War. In his estimation the Fort Jackson contract had been given to another man as a reward for electioneering for Adams and Clay in Pennsylvania.

The writer had owned and edited the *Louisiana Gazette* prior to his appointment, and in the controversy of 1824 and 1825 gave an "honest and warm expression to the indignant feelings" against Henry Clay's betrayal of principles. His letter further assured the Secretary that "you are too well acquainted with the system of management practiced for the past four years not to be sensible, that, if I could have asked, there was little chance that I would have obtained redress under my circumstances,—I opposed Patience to persecution."⁴ The applicant's letter left no doubt that he felt the time had come for a reversal of his christian attitude; and in less than a year a request was made for the removal of his opponent, indicating that he was fully justified in his assumptions.

The same condition prevailed in the West eight years later, even Senator Benton of Missouri being asked to aid in obtaining appointments for worthy individuals. Thus Benton wrote the Secretary of War endorsing Duncan Spalding of St. Louis for sutler at a new post up the Missouri river. Colonel Brant of the Quartermaster's Department also recommended Spalding, assuring the Secretary that the appointment would be good for the administration, the applicant being a "warm supporter" of the Jackson group.⁵

One class of men in particular found little difficulty in obtaining appointments. In that period even commissioned officers in the army sometimes achieved their rank through politics. And no matter how brilliantly they served, they were likely to be dismissed because of the periodic reductions in the armed forces of the United States. This was especially true after the War of 1812, when officers with years of service were discharged. Their fellow officers resented this seeming act of injustice and worked to obtain appointments for their

⁴Letter of sutler at Fort St. Philip, Louisiana, July 1, 1829, *Applications for Appointments L to Z—1829*, War Department, Washington.

⁵Letter of Thomas H. Benton, September 15, 1838, and letter of Colonel Brant, August 21, 1838, *Applications for Appointments in the Army 1836-1846*.

unfortunate comrades. Such applications were generally viewed favorably by the War Department, and a number of western sutlers came from this class. W. M. Read lost his commission in the regular army at the close of the War of 1812, but soon obtained a post as sutler in Florida. In 1829, however, new regulations by the War department terminated his position. He immediately wrote to the Secretary, explaining that he had been connected with the army for seventeen years, and now, as an old man, ". . . destitute of a profession, without a dollar, with broken limbs and a ruined constitution . . .", he must begin a new career. Claims of a wife and children offered powerful incentives to industry, and he was anxious to obtain an appointment as military or naval storekeeper or Indian agent.⁶

Enclosed with his letter was a personal recommendation by Winfield Scott, recounting Read's outstanding record in the War of 1812 while serving under him. Thomas Jesup's letter was equally flattering. Here were recommendations with a vengeance—two officers, now generals in the United States army, supporting this comrade who had served with them in happier times. In less than a month Read had a new appointment as sutler to the troops at Prairie du Chien and was planning to purchase goods and be on his way. Furthermore, he continued to serve at various posts until his death in 1835.

Equally interesting was the case of John Cleves Symmes. Entering the army in 1802 at the age of twenty-two, he remained in the service for thirteen years. By 1811 he had obtained the rank of captain, and served at Bellefontaine in that capacity from 1811 to 1814. Although he had every right to expect his army career to remain unbroken, he was discharged in 1815 when the organization was reduced.⁷ Like Read, he obtained a position as sutler at an army post, but resigned at the end of three years to engage in private business ventures unconnected with the service.

Outside of such situations, however, appointments went to those who could obtain political support. Under these

⁶Letters of W. M. Read, March 13, 1829, *Applications for Appointments L to Z—1829*.

⁷Papers of John Cleves Symmes 1791-1817, Draper Collection, State Historical Society of Wisconsin, Madison.

conditions it was not unusual for a sutler's tenure to be of short duration. Franklin Steele's record of twenty years at Fort Snelling was remarkable for its length. At various times the War Department fixed the length of appointment at three or four years, but many men served only a year or two. For example, at Fort Dearborn J. N. Baily served from 1828 to 1830, and was followed by B. B. Kercheval and S. T. Mason, who served until 1832. Samuel P. Brady succeeded these men and lasted until 1836.⁸

Such conditions meant that the average sutler entered the field of merchandising without the preliminary training which so many of the regular mercantile class had received, and that he remained in the business too short a time to learn thoroughly the most efficient ways of conducting his trade. Business failures and frequent changes in the ownership of stores were not uncommon among regular merchants, but that group was far better trained and remained in business much longer on the average than the merchant sutler.

This training and experience accounts in part at least for such differences as existed in the methods by which sutlers and regular merchants acquired their stock of goods from wholesale centers. Before the railroad era in the West many merchants made a trip to Philadelphia or New York City once a year to purchase supplies for the next twelve months.

On the other hand, sutlers generally purchased their goods in the nearest wholesale market of any size, if we may judge from the personal records of two sutlers, John Cleves Symmes and John O'Fallon, and other substantiating evidence.⁹ A general army order in 1829 required sutlers to reside at or near the post where they did business, and forbade the practise of sub-letting contracts.¹⁰ While such a rule did not prevent sutlers from leaving the post on business, commanding officers probably objected to granting the time necessary for visiting the seaboard. If goods could be purchased in some western city close at hand, why should the sutler be given permission to absent himself for a longer period?

⁸*Register of Sutler's Appointments*, War Department, Washington.

⁹The writer has found the personal records for only these two men, and of course day books of sutlers and government records throw no light on the origin of merchandise carried in the sutler's store.

¹⁰Order dated July 29, 1829, *General Order Book*, Vol. V.

Furthermore, the sutler had a monopoly of the post trade and did not have to sell in a competitive market. A council at the post determined his retail price, the monopoly of local trade making such action necessary. When John Cleves Symmes first took over the contract at Cantonment Davis on the Missouri in 1815 his prices were determined by a board of three officers appointed to that task. They set the price of tobacco, sugar, coffee, ammunition, and whiskey at once, Symmes selling a thousand dollars worth of the first three items in a short time. The demand for other items was so great that he started retailing these before the board had finished with its work, although he could only estimate the price in dealing with the troops. The final decision was to allow him a net profit of fifty per cent, a mark-up that compared favorably with the charges made by the regular mercantile classes. Symmes was dissatisfied, however, and explained in a letter to his wife that he was being compelled to sell on a smaller margin than any other man in his area. After the prices had been set he was compelled to surrender an excess profit of five hundred dollars, the sum being indicative of the price he had expected to charge. The facility with which he disposed of his merchandise before the final scale of prices was determined indicated that his sales would not have suffered in volume had the board granted the mark-up he expected.

In such a market, with profits limited to a definite percentage, there was little necessity for the sutler to patronize the cheaper wholesale centers. As long as his purchases for the camp were not too far out of line with the prices charged elsewhere there was no complaint. Why should he, therefore, bother to buy in the seaboard cities? If St. Louis wholesale prices were not too much above those of Philadelphia, and if the rate of profit at retail was to be figured at a definite percentage increase over the wholesale price, the sutler's profit would actually be larger if he paid a little more for the article in the first place.

In 1815 Symmes purchased his goods for Cantonment Davis from a St. Louis merchant and agreed to pay for them out of his profits on the winter's business. Four months after reaching the camp he sent the merchant a list of the things he would probably need for the next year's business. He

further promised to send a complete order in the spring, some months ahead of his contemplated trip down the river to visit his family. In that way the goods would be packed and ready for him to bring back to the camp, even though his time in St. Louis might be short. His communications indicated no interest in the cheaper, eastern wholesale markets, and his references to the short time which he could be away from the fort implied that he could not have purchased farther away than St. Louis had he so desired.¹¹

John O'Fallon of St. Louis was engaged in the Indian trade after his resignation from the army in 1818. From 1821 to 1823 he was also sutler at Council Bluffs. While engaged in the Indian trade he learned the advantage of purchasing in the larger wholesale centers but found difficulty in obtaining the time to make the trip. After his appointment at Council Bluffs he purchased part of his supplies in Philadelphia, but his fragmentary records indicate a strong probability that most of his goods came from St. Louis.¹²

Thus the pressure to remain at the post, lack of training in business matters, and the advantages of selling in a monopolistic market caused sutlers to rely on the closest city of any size for supplies. In that respect they were similar to the small western merchants, although the larger merchants purchased in the East or in New Orleans.

There was a closer similarity in the type of goods carried by the sutler and the regular merchant than one might suspect. The average store in the West of course carried a general stock of merchandise. In the forties the War Department gave the post councils the privilege of determining the type of goods to be carried by sutlers, in order that the troops might have the things they wanted.¹³ Even before this regulation, however, the post sutler had carried a large variety of goods.

Furthermore, there seems to have been little difference in the size of the stock carried by the two classes. A rough

¹¹The account of these transactions is contained in a series of letters from December 13, 1815, to February 3, 1816, *Papers of John Cleves Symmes 1791-1817*.

¹²Letters of John O'Fallon from 1820 to 1823, *John O'Fallon Papers*, Missouri Historical Society, St. Louis.

¹³Order dated March 10, 1847, *General Order Book*, Vol. X.

estimate, based on the Census figures for 1840, gives the value of the merchandise in the average western store at six to seven thousand dollars. John Cleves Symmes bought nine thousand dollars worth of merchandise when he started business at Cantonment Davis in 1815. O'Fallon became sutler at Council Bluffs in September of 1821, and by May in the following year had done six thousand dollars worth of business. As he probably had some goods left in May, his original stock must have cost about the same amount as Symmes'. Thus, in these two cases the sutler's stock was even slightly larger than that of the average western store some twenty years later.

By the time of the Civil War the larger cities, like St. Louis and Chicago, had rather imposing store buildings, but the smaller towns generally possessed very modest business structures. Assessments on Jared Warner's property in Millville, Wisconsin, in 1850 show that his home was valued at a third more than his store-building.¹⁴ The first store-building in Davenport, Iowa, was a single room, shingled, log cabin, sixteen by twenty feet.¹⁵ The records of John Cleves Symmes indicate that sutlers used equally unpretentious buildings. When Symmes arrived in Cantonment Davis he found it necessary to use the boat which brought his goods until he could get his business quarters far enough along to move his merchandise. When completed, his establishment cost only two hundred and seventy dollars and consisted of a counting-house, storeroom, store, and kitchen for cooking.¹⁶

Because his customers were drawn from the army personnel at the post, the sutler escaped some of the problems which disturbed the merchants serving a more varied community. For one thing, he did not have to carry on a system of barter in order to dispose of his merchandise. Stores serving a farming population found it necessary to take beef, pork, whiskey, ginseng, furs, or anything else marketable in exchange for store goods, for the western farming communities were notoriously short of cash. The disposal of the produce thus accumulated involved the merchant in the

¹⁴Jared Warner, *Day Book 1849-1854*, entry on last page, State Historical Society of Wisconsin, Madison.

¹⁵Davenport, Iowa, *Davenport Democrat and Leader*, June 29, 1936.

¹⁶Letter of John Cleves Symmes, December 17, 1815.

processing and export business. On the other hand, the sutler was selling to a group of customers in the pay of the government and thus escaped the barter process. He also probably faced less of the higgling and jewing on prices that was traditional among the farming classes and which really constituted a large part of the social life of those groups.

Although the regular merchants sold to a more varied group of customers, sutlers found that the soldiers bought rather freely and wanted a wide variety of things. Steele's records at Fort Snelling clearly indicated that fact. On March 12, 1849, Private Brown bought a pound of raisins and a pound of currants. On April 7, shoes, soap, and currants constituted the items of sale. Private Ryerson bought at various times indigo, paper, alcohol, suspenders, needles, sugar, apples, butter, and a tin cup. The "Officers Mess" purchased cloves, pepper, and cheese to supplement their plain fare. Reverend Ezekiel Gear bought for cleanliness—a scrub brush, broom, starch, and five cents worth of candy. Sergeant Mahoney bought a flask and cider, and also borrowed twenty dollars from the sutler.¹⁷

Whiskey constituted a large item in the sales of both regular merchants and sutlers. Western stores carried liquors in stock, and many storekeepers also kept a barrel of whiskey open in the back of the store, with a tin cup attached for the free use of customers, much as a small town merchant to-day keeps a pail of water and a dipper. Sutlers, too, did a remarkable business in whiskey until the government began to curb the practise in 1830. An order in that year called attention to the reports of officers and doctors that the sale of "ardent spirits" had a very bad effect on the health, morals, and discipline of enlisted troops, and ordered the practise stopped, the inclusion of whiskey in government rations ceasing at the same time. In the future sutlers were not to sell more than two gills of liquor to any soldier in one day, and then only on the written permission of the commanding officer.¹⁸ The liquor regulations were changed from time to time during the next twenty years; but sutlers found

¹⁷ Accounts taken from the "Account Books of Franklin Steele", Minnesota Historical Society, quoted in Marcus L. Hansen, *Old Fort Snelling 1819-1858*, Iowa City, 1918, 87-89.

¹⁸ Order dated November 3, 1830, *General Order Book*, Vol. V.

whiskey one of their chief sources of income, and such sales were never completely eliminated, even though instant dismissal was threatened for violations of government orders.

The importance of whiskey sales is well illustrated in the account book of a sutler before the change was made in 1830. Between December 11, 1827, and April 26, 1828, Corporal Martin bought goods totalling \$15.43 $\frac{3}{4}$. One order was for molasses. Starting on December 11, however, the Corporal daily purchased one gill of whiskey at six and one-fourth cents. From then until May 4 of the next year he made a daily pilgrimage to the sutler's store to refresh himself with his favorite beverage. He was wonderfully consistent in the practise, seldom varying even the quantity of the libation; but on May 4 something of a most unusual nature must have happened in his life, the daily order being changed for that one occasion to twelve and one-half cents worth of brandy. Sergeant Morgan displayed no such consistency. He was a man with cosmopolitan tastes. From December 12, 1827, to April 28, 1828, his purchases came to \$16.50, well distributed among brandy, gin, and wine. Nor was he as methodical as the Corporal, preferring the solace of greater quantities at less frequent intervals. The troops at the post all seemed to purchase liquors in small amounts, and all seemed to purchase other items as well. Military rank had little to do with the amount of goods purchased, Private Bagley's bill exceeding that of several men as high in rank as a sergeancy.¹⁹

Although eastern wholesalers might think that the regular western merchants dressed like "foxy grandpa", as one commentator expressed it, the sutlers probably had less incentive to orderly dress and neat stores. Although Symmes had been a commissioned officer in the army before he became a sutler, the colonel at his post remarked that he wished Mrs. Symmes was present to make her husband straighten his shelves and attend to his personal appearance. Symmes commented that he had worn his great coat all winter and never considered whether his shoes were blacked or snugly tied. More important in his estimation was the preparation of a garden in the spring,

¹⁹*Sutler's Book 1827-1828*, War Department, Washington. The name of the sutler and the post at which he was stationed are missing from the book.

so that he could vary his diet from the monotonous food he had been compelled to eat during the winter.²⁰

Regular merchants and sutlers alike had difficulty in collecting for the goods which they sold. Probably the greatest single factor among the causes for the failure of merchants was the credit system.

Sutlers, however, did receive some support from the government in collecting accounts against soldiers. Apparently at one time officers permitted sutlers to appear at the pay table and receive pay directly from the quartermaster for debts owed by the troops. Trouble naturally developed over this procedure and in 1847 an act of Congress repealed all such regulations.²¹ In 1859 a regulation forbade sutlers to sell a soldier goods in any one month totalling more than one-third of his salary, but granted some help in verifying debts and collecting bills if the soldier deserted.²² Undoubtedly strong pressure was used to get enlisted men to pay their debts, but the experience of Symmes indicates that the problem of collecting accounts could bother sutlers quite as much as regular merchants. When Symmes left Cantonment Davis in 1816 he was unable to meet all of his wholesale bill in St. Louis. The sutler who preceded him at the post still had some money coming and received this before Symmes was allowed to do any collecting. The regiment had eighteen months pay due and expected to get it in September, some two months in the future, so that Symmes could not hope to settle his own debts before that time.²³ Even after he accepted a post as sutler in Louisiana, however, the money was still owed by the troops at Cantonment Davis. Thus the sutler worried over slow pay and bad debts, even though his situation was probably not quite as bad as that of the regular mercantile class.

In some respects, then, the sutler was very similar to the merchants in the West. He had somewhat the same problem in collecting accounts, his stock of goods was equal in value to that found in the average western store, and his place of business, at least in the case of Symmes, was very much like the stores in the small western towns. On the other hand,

²⁰Letter of John Cleves Symmes, January 15, 1816.

²¹Order dated March 10, 1847, *General Order Book*, Vol. X.

²²Order dated April 11, 1859, *General Order Book*, Vol. XII.

²³Letter of John Cleves Symmes, July 15, 1816.

political influences caused sutlers to be recruited from groups unfamiliar with mercantile problems and the length of tenure was too short to give the necessary training. Sutlers patronized western wholesale centers more than did the regular mercantile groups. Lastly, the nature of their business prevented them from engaging in the multitude of activities common to western merchants—banking, exporting of farm crops, steamboating, and kindred ventures.

PROCEDURAL LIMITATIONS ON THE TEXAS LEGISLATURE

JOSEPH M. RAY

North Texas State Teachers College

I. THE CONSTITUTIONAL PROVISIONS

The Texas Constitution contains many restrictions upon the manner in which the legislative branch of the government may conduct its business. This article is concerned with the interpretation which such restrictions have been given by the Texas courts. Those procedural restrictions which are not directly related to bill procedure are never contested in the courts, and therefore a discussion of them would not be in point here.¹ The fact that constitutional requirements of this sort have not been brought before the courts is due partially to the usual legislative acquiescence in the restrictions. The main reason is that such regulations concern only the Legislature itself, and non-compliance with one of them does not necessarily create a presumption of invalidity against any particular part of the legislative product. However, there are several constitutional restrictions dealing directly with bill procedure which have not been brought before the courts. For example, there have been no cases dealing with the clause providing for the optional split session.² These provisions likewise will not be discussed.

¹The following are such limitations in Texas: Length of sessions, Constitution, Article 3, Secs. 5, 24, 40; see *Report of the Attorney-General, 1930-1932*, p. 277. Election of officers, Article 4, Secs. 3, 16; Article 3, Secs. 9, 41; see *Report of the Attorney-General, 1922-1924*, p. 209. Open sessions, Article 3, Sec. 16. Quorums and adjournment, Article 3, Secs. 10, 17. Punishment and expulsion of members, Article 3, Sec. 11; *Report of the Attorney-General, 1926-1928*, p. 387. Seating of Members, Article 3, Sec. 8; *Report of the Attorney-General, 1916-1918*, p. 268. Keeping of Journals, Article 3, Sec. 12.

²Article 3, Sec. 5. See *Report of the Attorney-General, 1930-1932*, p. 509; S. D. Myres and J. A. Burdine, "Governmental Reform in Texas," 5 *Arnold Foundation Studies*, No. 1 (1936), pp. 22-23.

For other restrictions on bill procedure under which no cases have arisen, see Article 3, Sec. 22, requiring members to refrain from voting on matters in which they have a private interest; Article 8, Sec. 10, requiring two-thirds of the members of each house to pass an act releasing parts of the state from taxation; and Article 9, Sec. 1, requiring a two-thirds vote to reduce a county below a certain size.

There are only seven of the many procedural limitations in the Texas Constitution which have been taken to the courts for enforcement, and the discussion here will be confined to these alone. One of these provisions stipulates that no bill shall be so amended during its passage through the Legislature as to change its original purpose.³ A second clause provides that bills shall not have the force of law until they have been read on three several days in each house, with free discussion on them at each reading. It is provided that in cases of "imperative public necessity," if the necessity is expressed in the bill, the rule may be suspended by a four-fifth vote, with the yeas and nays being taken and recorded on the journals.⁴ A third clause provides that after a bill or resolution has been defeated by either house of the Legislature, no bill or resolution containing the same substance shall be passed during the same session.⁵ A fourth provision forbids the consideration of a bill until it has been referred to and reported from a committee; it further prohibits the passage of bills which have not been reported from a committee at least three days before final adjournment.⁶ A fifth restriction requires that the presiding officer in each house shall sign all bills in the presence of the house after the titles have been publicly read, with the fact of signing being entered upon the journals.⁷ A sixth provision which has been brought before the courts for enforcement is the requirement that bills may be passed over the Governor's veto only by a two-thirds vote of the members present in each house, with the yeas and nays on each vote recorded on the journals.⁸ The seventh provision deals with the effective date of legislation. It stipulates that bills shall not go into force until ninety days after the adjournment of the session at which they were enacted. However, it is provided that, in cases of emergency, if the emergency is expressed in the act, the Legislature may by a two-thirds vote of all the elected members of each house suspend this rule, the vote in each instance being recorded and entered upon the journals.⁹

³Article 3, Sec. 30.

⁴Article 3, Sec. 32.

⁵Article 3, Sec. 34.

⁶Article 3, Sec. 37.

⁷Article 3, Sec. 38.

⁸Article 4, Sec. 14.

⁹Article 3, Sec. 39.

These, then, are the constitutional requirements which the Texas courts have been requested to enforce. What has been the attitude of the courts toward them?

II. JUDICIAL ENFORCEMENT OF PROCEDURAL LIMITATIONS

1. *The Nature of the Problem.* The only way in which the courts may test legislative compliance with constitutional procedural requirements is by resort to parol evidence or to the journals kept by the legislative bodies. Naturally any court would hesitate to invalidate a statute on the basis of oral testimony, and so far as was discovered, no court has ever done so.¹⁰ The essence of the question arising here, then, is whether the courts will resort to the legislative journals as proof of legislative compliance or non-compliance with a specific constitutional provision, or whether the courts will hold, as they do in some jurisdictions, that the enrolled bill is conclusive evidence of its proper passage by the Legislature. Authorities in the several states are hopelessly divided on this question. One writer has characterized this cleavage of opinion as follows:

Three rules have quite naturally evolved. The first, being the journal entry rule, regards recitals in the legislative journals as controlling, resolves all conflict with the enrolled bill in favor of express journal entries and, indeed, considers even the silence of the journals, where a specific entry is made mandatory by the constitution, as sufficient to invalidate the enactment. The second, being the enrolled bill rule, treats the enrolled bill as a verity and as the exclusive and conclusive evidence of due enactment. The third, termed the modified enrolled bill rule, regards the enrolled bill "as conclusive evidence of due compliance with constitutional requirements, *except* when the constitution expressly prescribes that a specific journal entry shall evidence such compliance."¹¹

In view of the widely accepted principle that state constitutional limitations are to be strictly construed against legislative authority,¹² it would seem that the most logical rule

¹⁰T. M. Cooley, *Constitutional Limitations*, 8th Ed. (1927), p. 277.

¹¹"Constitutional Regulation of Legislative Procedure—Another Word," unsigned note, 21 *Iowa Law Review* (1936), 573, at p. 573. See also C. B. Charlton, "Constitutional Regulation of Legislative Procedure," 21 *Iowa Law Review* (1936), 538.

¹²W. F. Dodd, "Implied Powers and Implied Limitations in Constitutional Law," 29 *Yale Law Journal* (1920), 137, at p. 156.

to be followed would be the first one named above, namely, the journal entry rule. Cooley subscribes to this rule as the only valid one.¹³ Such a rule obviously renders procedural restrictions mandatory rather than directory; under the enrolled bill rule limitations of this kind serve simply as a guide to the Legislature and are not utilized to nullify statutes. The Texas courts have subscribed to a modified form of the enrolled bill rule, namely, they hold the enrolled bill to be conclusive evidence of proper passage except as regards constitutional provisions requiring a specific journal entry. To this latter group of provisions they apply the journal entry rule.

2. *The Enrolled Bill Rule in Texas.* The enrolled bill rule has been applied to four of the Texas constitutional limitations on bill procedure; (1) the provision that no bill shall be amended so as to change its original purpose, (2) the requirement of three readings on several days, (3) the prohibition on the passage of bills substantially the same as bills previously defeated, and (4) the requirement that bills must be referred to and reported from a committee before being considered by the respective houses.

The best expression of the enrolled bill doctrine is found in the Court of Appeals decision in *Usener v. State*. This is the first case in which the enrolled bill rule was formally accepted by the Texas courts. The court stated:

Where an act has been passed by the Legislature, signed by the proper officers of each house, approved by the governor, and filed in the office of the secretary of state, it constitutes a record which is conclusive evidence of the passage of the act as enrolled. Neither journals kept by the Legislature nor the bill as originally introduced, nor the amendments attached to it, nor parol evidence, can be received in order to show that an act of the Legislature, properly enrolled, authenticated and deposited with the secretary of state did not become a law.¹⁴

The most frequently cited Texas case applying the enrolled bill rule is *Williams v. Taylor*,¹⁵ decided by the Supreme Court in 1892. In this case the court stated that, since the Legislature

¹³ *Op. cit.*, p. 277.

¹⁴ 8 Tex. App. 177, at p. 181 (Ct. of Apps. 1880). The court cited *Pangborn v. Young*, 32 N. J. L. 29 (1866), and *State v. Swift*, 10 Nev. 176 (1875). The earliest Texas case is *Blessing v. Galveston*, 42, Tex. 641 (1875).

¹⁵ 19 S. W. 156 (Tex. Sup. Ct. 1892).

and the courts are co-ordinate branches of the government, a court should "ponder well before undertaking to revise the proceedings of either house of the legislature, and to declare its action void merely on account of its failure to observe some rule of procedure prescribed in the constitution."¹⁶ The consequences of the practice of going behind the enrolled bill were described as follows:

If its validity is to be tested by the journals, we see no reason why courts should not look to them; and there could never be an assurance of the validity of any statute until the journals had been examined, and it had been found that the procedure prescribed in the constitution had been followed. It seems to us that such a rule would lead to inextricable confusion.¹⁷

Many subsequent Texas cases have applied the enrolled bill rule, but they have added little to the reasoning of the Supreme Court in *Williams v. Taylor*.¹⁸

¹⁶*Ibid.*, p. 157.

¹⁷*Idem.*

¹⁸On Article 3, Sec. 30, providing that bills may not be so amended as to change their original purpose, see *H. & T. C. Railway Co. v. Stuard*, 48 S. W. 799 (Tex. Civ. Apps. 1898); *Parshall v. State*, 138 S. W. 759 (Tex. Crim. Apps. 1911); *Harris County v. Hammond*, 203 S. W. 445 (Tex. Civ. Apps. 1918).

On Article 3, Sec. 32, the three readings requirement, see *Day Land and Cattle Co. v. State*, 4 S. W. 865 (Tex. Sup. Ct. 1887); *Williams v. Taylor*, *supra*; *El Paso and S. W. Railway Co. v. Foth*, 100 S. W. 171 (Tex. Civ. Apps. 1907); *Orrick v. City of Fort Worth*, 114 S. W. 677 (Tex. Civ. Apps. 1908).

On Article 3, Sec. 34, providing that when a bill has once been defeated a bill containing the same substance may not be enacted at the same session, see *King v. Terrell*, 218 S. W. 42 (Tex. Civ. Apps. 1920); the court in this case did compare the bill which had been defeated by the Legislature with the enrolled bill before it and concluded that the question was one upon which reasonable men might differ, and since the Legislature had evidenced its conviction that the two bills were substantially different, its opinion should prevail; however, it was pointed out that even if there was a clear violation of the restriction, the law could be upheld under the rule of *Williams v. Taylor*.

On Article 3, Sec. 37, requiring reference to a committee, see *Day Land and Cattle Co. v. State*, 4 S. W. 865 (Tex. Sup. Ct. 1887); *Williams v. Taylor*, *supra*.

See also *In re Tipton*, 13 S. W. 610 (Tex. Ct. of Apps. 1890); *McLane v. Paschal*, 28 S. W. 711 (Tex. Civ. Apps. 1894); *Teem v. State*, 183 S. W. 1144 (Tex. Crim. Apps. 1916); *Harris County v. Hammond*, 203 S. W. 445 (Tex. Civ. Apps. 1918).

3. *Applications of the Journal Entry Rule in Texas.* There are three constitutional limitations on bill procedure in Texas which the courts have enforced by going beyond the enrolled bill and resorting to the legislative journals. These provisions are: (1) the requirement that bills must be signed by the presiding officers in the presence of the respective houses, (2) the provision that bills may be passed over the Governor's veto by a two-thirds vote of each house, and (3) the requirement that laws shall go into effect ninety days after final adjournment of the session at which they were enacted unless otherwise provided by a two-thirds vote of each house.¹⁹ The Constitution, in each of these provisions, stipulates that a specific journal entry shall be made. The attitude of the courts has been that the only way to enforce these specific constitutional requirements is to look to the journals to see if the Constitution has been observed.

Article 3, Section 38, of the Constitution stipulates that bills shall be signed by the presiding officers in the presence of the respective houses, after a public reading of their titles, and the fact of signing is required to be entered upon the journals. The first case in which this provision was singled out as an exception to the enrolled bill rule was *Hunt v. State*,²⁰ decided by the Court of Appeals in 1886. Although the court in this case was severely critical of the opinion in the *Usener* case, its opinion was based mainly on the fact that the Constitution expressly requires the journal to show the fact of signing, and it was pointed out that this fact clearly distinguished the case at bar from the *Usener* case. The court went even further to say that under such a constitutional requirement even the silence of the journals would necessarily invalidate a law.

¹⁹Article 3, Sec. 38; Article 4, Sec. 14; Article 3, Sec. 39. See also Article 9, Sec. 1, which has not as yet been before the courts.

²⁰3 S. W. 233, at p. 235. The court cited *Perry v. Railroad Co.*, 58 Ala. 546 (1877) as authority. Other cases on the subject are *State v. Cahill*, 75 Pac. 433 (Wyo. 1904); *George Bolln Co. v. North Platte Valley Irrigation Co.*, 121 Pac. 22 (Wyo. 1912); *Scarborough v. Robinson*, 81 N. C. 291 (1879); *State v. Mickey*, 102 N. W. 679 (Neb. 1905); *Lynch v. Hutchinson*, 76 N. E. 370 (Ill. 1905).

See also Texas, *Report of the Attorney-General, 1928-1930*, p. 314; *Parshall v. State*, 138 S. W. 759 (Tex. Crim. Apps. 1911); *Holman v. Pabst*, 27 S. W. 2d, 340 (Tex. Civ. Apps. 1930).

A second constitutional provision which requires a specific journal entry to be made is the clause governing the passage of bills over the Governor's veto.²¹ Although no statute has ever been questioned in Texas on the ground that the journals did not affirmatively show that the bill had been passed with the requisite two-thirds vote, one case did arise in which the court evidenced a willingness to go behind the enrolled bill to enforce the clause.²²

A great many cases have arisen in connection with the provision controlling the effective date of statutes. The reason for this is not hard to find: effective date of a statute is often the deciding factor in a controversy.²³ The part of this clause which provides the effective date of ordinary statutes is not in point here, since it does not constitute a part of the procedural restriction on the Legislature. The clause becomes a procedural limitation only when the Legislature follows the procedure set up for changing the ordinary effective date of an act.

Nearly every important bill introduced contains an emergency clause. A natural result is that many statutes contain emergency clauses which may not go into immediate effect because they did not pass by the requisite two-thirds vote. The courts have pointed out that the mere fact of the presence of an emergency clause in a statute does not give it immediate effect.²⁴ The Constitution specifically states that the two-thirds vote shall be two-thirds of all members elected to the respective houses, and not just two-thirds of those present or voting.²⁵ It has been held that there is no way of enforcing this express constitutional requirement except by resort to the legislative journals and that parol or other evidence which conflicts with evidence found in the journals will not be considered.²⁶ The Legislature's declaration of the existence

²¹Article 4, Sec. 14.

²²Houston and Texas Central Railway Co. v. Odum, 53 Tex. 343 (1880).

²³Article 3, Sec. 39. For general comments on the clause of taking effect, see Cooley, *op. cit.*, p. 326; C. L. Jones, *Statute Law Making in the United States* (1912), p. 160, Ch. XI, *passim*.

²⁴Giebel v. State, 12 S. W. 591 (Tex. Ct. of Apps. 1889).

²⁵M. K. and T. Railway Co. v. McGlamory, 41 S. W. 466 (Tex. Sup. Ct. 1897).

²⁶Ewing v. Duncan, 16 S. W. 1000 (Tex. Sup. Ct. 1891); see also Jameson v. State, 24 S. W. 508 (Tex. Crim. Apps. 1893); Belcher v. State, 44 S. W. 1106 (Tex. Crim. Apps. 1898).

of a public necessity or emergency has been consistently held to be conclusive and binding on the courts, and the court cannot re-examine the question to see if such an emergency really existed.²⁷

The respective houses of the Legislature, in suspending the constitutional rule so as to permit an act to go into immediate effect, always call for the record two-thirds vote on what is called "final passage," which occurs just after the third reading and final debate. After this vote has been taken in the house of origin, the bill is sent to the other house. If the second house amends the bill, or if the bill is changed in the conference committee, the question arises as to whether the two houses must concur in the amendments by a record two-thirds vote before the act can be put into immediate effect. After two earlier cases had left this question considerably confused,²⁸ a recent decision specifically overruled the earlier cases and definitely settled the question:

The provision of our constitution is complied with only after a bill in its final form is passed by both branches of the Legislature by a two-thirds yea and nay vote of all the members of each house.²⁹

4. *An Anomalous Exception to the Journal Entry Rule.* It has been shown above that the Texas courts subscribe to the so-called "modified enrolled bill rule." In other words, they have considered the enrolled bill "as conclusive evidence of due compliance with constitutional requirements, *except* when the constitution expressly prescribes that a specific journal entry shall evidence such compliance."³⁰

However, the Texas courts have deviated in one respect from this modified enrolled bill rule. This exception is in connection with the requirement that bills be read on three several days. The Constitution provides that this rule may be suspended only by a four-fifths vote, "the yeas and nays being taken on the question of suspension and entered upon the

²⁷Day Land and Cattle Co. v. State, 4 S. W. 865 (Tex. Sup. Ct. 1887); Orrick v. City of Fort Worth, 114 S. W. 677 (Tex. Civ. Apps. 1908).

²⁸Wilson v. Young County Hardware and Furniture Co., 262 S. W. 873 (Tex. Civ. Apps. 1924); *Ex parte* May, 40 S. W. 2d, 811 (Tex. Crim. Apps. 1931).

²⁹Caples v. Cole, 98 S. W. 2d, 447, at p. 448 (Tex. Civ. Apps. 1936), affirmed, 102 S. W., 2d, 173 (Tex. Com. of Apps. 1937).

³⁰"Constitutional Regulation of Legislative Procedure—Another Word," unsigned note, 21 *Iowa Law Review*, 573.

journals."³¹ As was shown above, the courts have refused to go behind the enrolled bill to enforce this clause.³² There seems to be no adequate justification for this discrepancy in the application of the modified enrolled bill doctrine in Texas. Certainly it is true that the interpretation given the Constitution lacks consistency here. Nevertheless it must be admitted that Texas is fortunate in that its courts have refused to apply the journal entry rule in this connection. The three-readings rule is very frequently suspended—it is almost always suspended if the author of the bill so desires and if there is no appreciable opposition to the bill—and thus the validity of many statutes would be jeopardized. Perhaps the real reason why the enrolled bill rule rather than the journal entry rule has been applied to the three readings requirement in Texas is that the first three important cases giving expression to the enrolled bill rule were concerned with this provision,³³ and the matter was definitely settled at an early date. However, no matter what was the origin of the anomalous interpretation given this provision, no constitutional question has been raised under it since 1908,³⁴ and it is altogether probable that none will ever be raised again.

III. CONCLUSIONS

Although the effect of constitutional limitations upon legislative procedure should not be minimized, it is apparent from the cases and provisions discussed that no excessive hardship has been imposed on the Texas Legislature by these requirements. Most of the constitutional restrictions on bill procedure are such as the Legislature might have placed upon itself, and if they are not enforced in the courts, they are little different from self-imposed restrictions. The wisdom of the enrolled bill rule is evidenced when it is realized that under such a rule most of the benefits of constitutional regulation of bill procedure are derived without the serious disadvantage of frequent nullification of statutes on technical or procedural grounds.

³¹Article 3, Sec. 32.

³²Supra, notes 15 and 18.

³³Blessings v. Galveston, 42 Tex. 641 (1875); Usener v. State, 8 Tex. App. 177 (Ct. of Apps. 1880); Williams v. Taylor, 19 S. W. 156 (Tex. Sup. Ct. 1892).

³⁴Orrick v. City of Fort Worth, 114 S. W. 677 (Tex. civ. apps. 1908).

A FARM MANAGEMENT POINT OF VIEW ON FCA LOANS AND LOAN EXPERIENCE

P. H. STEPHENS

Statistician, Farm Credit Administration of Wichita

The various lending agencies now making up the Farm Credit Administration have fostered and developed a farm management point of view since their inception. The original Federal Farm Loan Act, passed in 1916, provided that income from agricultural production should be a principal factor in the appraisal of farm lands eligible for Federal Land Bank loans. This is a farm management point of view in contrast to the concept of loan value, based largely upon sales price, commonly used by lending agencies prior to the passage of the Federal Farm Loan Act.

The Federal Land Banks have throughout their history made long time amortized loans. This again is a farm management point of view. It is sound from the point of view of the lending agency and good business sense from the point of view of the individual borrower to pay off the principal of a debt in small installments rather than incur real estate mortgage indebtedness on a term of five, seven, or ten years, without provision in the contract for the gradual reduction of the principal. The soundness of the capitalization method of appraisal and of the amortization plan of repayment of principal in making real estate loans, both agricultural and urban, is now generally recognized. The Federal Land Banks have played an important part during the past 21 years in bringing about these desirable evolutions in real estate loan procedure.

LOAN REPAYMENTS BASED UPON ANTICIPATED INCOME

The younger members of the Farm Credit family have also made use of the farm management point of view in establishing their loan policy. The Production Credit Associations established under the Farm Credit Act of 1933 make secured loans for production purposes to farmers based on a repayment program arising out of anticipated sales from farm products. This is an innovation from the practice formerly in vogue, and still practiced to a large extent, of making loans based largely upon collateral.

The budgeted loan with repayments based upon income has several advantages from the borrowers' point of view. The loan is usually set up anticipating as far as possible the entire credit needs of the borrower for the year. Advances are made as the need for money arises to meet expenses in the production and marketing of farm crops and livestock. Repayments are made as products are sold and interest is charged only on the balance outstanding. This reduces the interest charge to the borrower considerably over the practice prevalent in many agricultural areas where the entire amount of the loan is set up on the books at the beginning of the crop season less discount taken out in advance and the due date of the note set at harvest time three, six, or nine months ahead. I believe there is a still further advantage to the borrower and also the lender in setting down in black and white the anticipated items of income and expense for a year. It tends to systematize the farm business and promote efficiency.

F. C. A.—A FARMERS CREDIT COOPERATIVE

Perhaps these concepts of loan policy that I have been attributing to a farm management point of view are only a farmer point of view. The Farm Credit Administration is a farmer rather than banker minded organization. It is difficult for many people in their casual thinking to realize that the large majority of the institutions making up the Farm Credit Administration are not Federal agencies loaning government funds. The basic plans of the various agencies of the Farm Credit Administration are similar. In the case of the Federal Land Banks, provision is made for the retirement of the original capital subscription in these institutions on the part of the Federal government by stock subscriptions from member borrowers.

SOURCE OF LOAN FUNDS

The plan also provides that the source of loan funds shall not be government money but bonds or debentures sold to the investing public based upon the notes and mortgages of the borrowers and guaranteed only by the reserves and capital stock of the issuing institutions. This plan is not an idle dream or a mere regulation to be disregarded where possible.

The plan has worked. In 1917 when the Federal Land Banks were organized, virtually all of the initial capital, amounting to \$750,000 in each bank, was subscribed by the United States Treasury. Each land bank borrower subscribes for an amount of stock equivalent to 5 per cent of his loan in his National Farm Loan Association. The association in turn purchases an equivalent amount of stock with the Federal Land Bank. Prior to 1930 the government stock in the Federal Land Bank of Wichita had all been retired, and the bank was in fact owned by the member borrowers through their National Farm Loan Associations. To provide adequate capital structure for the large volume of loans made by the Federal Land Bank since 1933 it has been necessary for the Federal government to subscribe for additional capital stock.

At the present time, the National Farm Loan Associations and direct borrowers in the Ninth Farm Credit District comprising the states of Kansas, Oklahoma, Colorado, and New Mexico own more than \$9,500,000 of the capital stock of the Federal Land Bank of Wichita out of a total capitalization of \$15,200,000 or 62 per cent. The percentage of government owned stock will decline as further subscriptions from borrowers in National Farm Loan Association stock arise in the making of new loans.

FARMER CONTROL THROUGH STOCK OWNERSHIP

While the amounts of capital stock owned by farmer members in the Production Credit Associations and the Bank for Cooperatives are smaller both in total amount and in percentage, than in the case of the Federal Land Banks, these institutions are less than five years old and the proportion owned by members is growing. The Production Credit Association borrowers own more than \$1,000,000 of the capital stock in their associations in this district alone. Our Bank for Cooperatives with its smaller amount of loans has approximately \$145,000 of member owned capital stock. Progress is being made towards eventual ownership of these institutions by their member borrowers. We feel that it is important that, if we are to function as cooperative credit institutions, the ownership of capital stock and the control that rests with that ownership be in the hands of those who are directly benefited by their services.

The farm management or farmer point of view which has been fostered and developed by the various units of the Farm Credit Administration is becoming increasingly dominant in most of the agricultural regions in the United States. The soundness of these policies has been demonstrated, and voluntarily or through the force of competition, the loan policies, terms, and procedures developed by the Farm Credit institutions have been adopted by other loaning agencies. This has resulted not only in a reduction of interest rates, commissions, and discount charges, but a better fitting of the terms of the contract to the farmers' needs. As in most cooperatives, advantages due to cooperative effort are shared with the non-members because of the effects of the cooperative upon business practices generally.

EFFECTS OF POLICIES

It is difficult to make an accurate appraisal of the effects of these policies both upon our own member borrowers or upon agricultural borrowers otherwise. The long-time effects of a given policy are often different than the immediate effects. For example, the primary effect of a decrease in interest rates may be a direct cash saving to the borrowers. Over a long period of time the direct saving may be entirely dissipated at least for new borrowers in the rise of the price of land. From a long-time point of view, I believe that the policies of the Farm Credit Administration that point towards greater stability in agriculture are more important than direct cash savings in interest charges.

THE NORMAL PRICE CONCEPT

Briefly the appraisal policy of the Federal Land Bank is based upon an evaluation of the average production of a farm at "normal" prices of farm products. The 1910-14 level of product prices corrected for trends in demand has been considered "normal". You may disagree with the base chosen or the particular amounts arrived at in individual instances, but I think you will agree that this is a large step forward from the practices of old time lending agencies in basing their loans upon current sales prices. In a long period of rising real estate prices, such as that prevailing in this country prior

to 1920, the sales price method of appraising land was fairly satisfactory. Time alone could be relied upon to cure most of the appraisers' mistakes. However, the operations of that policy tended to accentuate the booms and depressions in the prices of farm land. Under the appraisal policy followed by the Federal Land Banks in the recent depression, in many instances the loan was more than the sale price of the property, yet a majority of these loans are relatively sound. Likewise, it has been demonstrated that the Federal Land Banks have the fortitude to keep their loans on a conservative basis during land booms. We have just completed a very intensive study of loans and loan experience in Baca County, Colorado. Our investigation indicates that the loan per acre on a given size and type of unit in that area has remained practically a fixed amount per acre during the past 20 years notwithstanding the fact that during the wheat boom in the later 1920's in western Kansas and Oklahoma and in eastern Colorado farms frequently sold for five times the amount of the original land bank loan, and that many sales were refinanced through private agencies at double or more the amounts per acre than the Federal Land Bank would lend.

I do not want to give the impression that our appraisal policy is perfect or that mistakes have not been made. However, most of our foreclosures have occurred in areas where the type of farming over a period of years has become much less intensive than was anticipated at the time the loans were made. The Federal Land Bank experienced a high rate of foreclosures 10 years ago in southeast Oklahoma when cotton production in that area declined, due to the combination of boll weevil, soil depletion, and the competition of other areas, and the land was returned to a less intensive use. A high rate of foreclosure resulted 10 years ago in the semi-arid areas and regions far from markets when farms were consolidated into ranches. Likewise, we have in mind an irrigation district where the source of water supply proved inadequate and the farms returned to the desert.

STABILIZING EFFECTS MOST IMPORTANT

The stabilizing effects of the loan policy of the Federal Land Banks is far reaching. At the present time, the Federal Land Bank and the Land Bank Commissioner in the Ninth

Farm Credit District hold approximately \$246,000,000 in farm mortgage loans. One-sixth of the farm land in the district is mortgaged to these agencies. Their relative importance varies considerably in various portions of the district. The amount of loans in various counties varies from none in San Jaun County, Colorado, where, incidentally, there are only two farms according to the census, to more than \$5,000,000 in Weld County, Colorado, which is a large county with a considerable amount of valuable irrigated land. There are 257 counties in this district so that the average county has approximately \$1,000,000 in loans.

The percentage of total indebtedness held in Oklahoma is low, only 32 per cent, because of the competition of the Oklahoma School Land Commission in addition to the other agencies. Our amount of loans is relatively insignificant in eastern Oklahoma because of the early activity of the life insurance companies.

DOMINANT POSITION IN WESTERN WHEAT BELT

On the other hand, because of the lack of competition from outside agencies and local funds, more than one-half of the farm mortgage loans in New Mexico are held by the Federal Land Bank and Land Bank Commissioner. Our greatest concentration of loans generally in per cent of farmers served is in the western wheat producing area, where from 25 to 50 per cent of the total land area is mortgaged to the Federal Land Bank or Land Bank Commissioner. The distribution of loans that I have portrayed for this district is typical of the entire United States, the Federal Land Bank and Land Bank Commissioner holding 40 per cent of the estimated total mortgage debt of \$7,255,000,000, as of January 1, 1937.

Because we occupy this dominant position and because we do not have the incentive, being a cooperative institution, to let the urge for profit lead us into unsound loan policies, I feel that the Federal Land Bank and Land Bank Commissioner will in the future be an important bulwark against unsound inflation of farm land values. We shall not be able to prevent land booms but we can temper them. A recent study published by the Iowa Experiment Station indicates that past land booms have been financed largely by second mortgage

lenders rather than by first mortgage lenders. On the other hand, when it is known that the Federal Land Bank will lend \$50 per acre on a given piece of land, the purchaser at a price out of line with this appraisal has a warning signal.

While the rates of delinquency on Federal Land Bank and Land Bank Commissioner loans in this district at the present time are relatively high, the rates vary widely. On January 1 of this year we had several counties with from \$1,000,000 to \$3,000,000 of loans per county where there was not a single delinquency. These counties were for the most part in the area where a large wheat crop was produced last summer and satisfactory prices were obtained. On the other hand, delinquency was high in areas where crop failures have been prevalent for the last three, four, or five years. Whether these delinquencies will result in foreclosure or not depends largely upon weather conditions and farm product prices in future years. On the whole, our delinquency problem is not as serious as one might expect from an examination of farm income figures. During the past seven years, farm income in the Ninth Farm Credit District has averaged 58 per cent of the 1924-29 average farm income. In the United States as a whole, the comparable percentage is 66 per cent. With continued subnormal income a large majority of our borrowers have maintained their loans in a current condition. I believe that speaks well for the soundness of the loan policy and the integrity of our member borrowers.

PRODUCTION CREDIT LOANS AND EXPERIENCE

The experience of the Production Credit Associations is much shorter in duration. In the past four years, our Production Credit Associations in the four states of Kansas, Oklahoma, Colorado, and New Mexico have loaned more than \$72,000,000. To date known losses amount to less than one-twentieth of one per cent of the amount loaned. This is in itself a remarkable record, although maturity of experience will likely show a somewhat higher rate of loss. In addition to the advantage of being a young institution, the Production Credit Associations have had the advantage of rising livestock prices and increasing farm incomes throughout most of the period since their organization in 1933.

The Production Credit Associations in this district have received their largest demand for loans in the range livestock areas and in the areas where previously existing banking institutions have ceased to exist or operate in recent years. The Production Credit Associations, in addition to the previously mentioned advantages of rates and terms on budgeted loans, have a further advantage in being more dependable as a source of credit than institutions whose source of loan funds is bank deposits. The Production Credit Associations obtain loan funds by discounting their member borrowers' notes with the Federal Intermediate Credit Banks. The Federal Intermediate Credit Banks in turn obtain their funds through the sale of collateral trust debentures to the general investing public. Banks and trust companies have been the principal purchasers of these debentures.

Due to the favorable experience with these debentures that has been built up since the Federal Intermediate Credit Banks were organized in 1923, they are sold on practically the same basis as the best grade prime commercial paper. The debentures carry a face rate of $1\frac{1}{2}$ per cent and have been selling at a slight premium. The Federal Intermediate Credit Bank supplies money to the Production Credit Associations currently at 2 per cent. Production Credit Associations charge 5 per cent to the member borrower, leaving a 3 per cent margin to cover operating expenses and build up reserves. One of the most apparent disadvantages of the Production Credit Associations to date has been the large territory which most of them cover. We have 41 Production Credit Associations in the Ninth Farm Credit District, embracing 257 counties. To obtain a volume of business sufficient to pay the salary of a secretary-treasurer, clerical assistance, travel and housing costs out of 3 per cent margin, facilities must be made easily accessible to all potential borrowers, and this is a problem when the territory covered is a very large area. Efforts have been made to overcome this difficulty through the establishment of local field offices and application writers in the counties away from the headquarters county. As the volume of business of the Production Credit Associations increases it will perhaps be possible as time goes on to decrease the territory of a given Production Credit Association.

SIMILAR AIM OF STABILITY IN AGRICULTURE

The accomplishments of the Production Credit Associations in promoting stability in agriculture will in time, I believe, be no less noteworthy than that of the Federal Land Banks. In the making of livestock loans in particular, the Production Credit Associations follow an appraisal policy similar to that of the Federal Land Bank. In other words, a fixed normal value subject to some correction for trend. During the period of low prices for livestock in 1933 and 1934, Production Credit Association loans on breeding herds were in many instances 100 per cent of market value. On the other hand, a year ago in a period of high livestock prices our loans per head were conservative in comparison with market prices. These features of dependability and stability appeal to the conservative farmer and livestock man. It is anticipated that our Production Credit Associations will continue to grow and serve a larger per cent of farmers using credit.

BANK FOR COOPERATIVES AIDS STABILITY

The Bank for Cooperatives is also a stabilizing factor in our agricultural picture. Its operations have the effect of discouraging unsound promotional schemes in the cooperative field as well as promoting and encouraging sound financing of sound cooperatives. The number of loans to cooperatives in this Farm Credit District is relatively small. There are only 1,500 farmer cooperatives in the entire district. This embraces all type of cooperatives, marketing, merchandising, and service organizations. On the first of March, 128 of these cooperatives had total loans in excess of \$3,000,000 with the Wichita Bank for Cooperatives. The Bank for Cooperatives is performing an important service to cooperative enterprises in this district, not only in assisting them in sound and sympathetic financing but in making available to them expert assistance in management and membership problems.

FARM MANAGEMENT SERVICE TO BORROWERS

The permanent units of the Farm Credit Administration are set up to make loans to financially responsible farmers at cost. Considerable thought has been given to the problem of farm management service of one type or another to our stockholders, particularly those in a delinquent status. The item of cost to date has stood in the way. The average land

bank loan in our district has a balance outstanding of only \$3,029. The 1 per cent spread between the bond rate and the contract rate that the borrower pays does not permit any large number of frills in our service after operating costs are paid and adequate reserves are set aside. Likewise, with the Production Credit Association loans which average less than \$1,500 in size and are on the books only an average of six months, a 3 per cent spread between the cost of money to the association and the rate that the borrower pays limits the amount of attention that can be given the individual borrower. The Bank for Cooperatives is virtually offering, through the services of its officers, a management service to its member borrowers.

RECENT DEVELOPMENTS

Recently there was set up in the Washington office of the Land Bank Commissioner a farm management section. It will be the purpose of this section to assist our personnel, particularly the field forces, to acquaint themselves with good farm management practices, to observe these practices in servicing our loans, and to secure the cooperation of the Agricultural Extension Service in the servicing of individual loans in instances where such cooperation is mutually agreeable. A considerable degree of cooperation already exists in many districts between the various agencies of the Farm Credit Administration and the agricultural colleges and extension services both of a service and research nature.

Another step forward was made in the 1937 amendments to the Farm Credit Act in making provision for conditional payments on Federal Land Bank loans. These advance payments earn interest. To date this seems the most practical means of providing for flexibility in loan repayments.¹

Time will not permit a complete cataloguing of the various aspects of the Farm Credit Administration that have a farm management implication. I trust that these remarks of mine have indicated to you that the Farm Credit Administration has made some small progress along farm management lines and that the officials and personnel of the Farm Credit Administration welcome pertinent suggestions from those engaged in farm management work.

¹"Flexible Payments for Farm Mortgage Loans," F. F. Hill, *Journal of Farm Economics*, Vol. XX No. 1, pages 257-281.

NAPOLEON AND MEXICAN SILVER

JOHN RYDJORD

University of Wichita

Finances have played a very important part in French history, especially during the French Revolution and the Napoleonic period. When Napoleon began his military career, France became, in the words of Mowat, a "parasitical state" which could not maintain its war government from its internal revenues.¹

In casting about for a likely source of revenue, Napoleon naturally turned to his southern neighbor, Spain, a country which had access to the great treasures of the New World. Many of Bonaparte's policies were concerned with the struggle for the silver of Mexico, which he sought by means of commerce, subsidies, and conquest.

Spain had long supplied the powers of Europe with specie. Her effort to stop the flow of the precious metals out of the country resulted only in an elaborate system of smuggling, and Spanish dollars continued to flow to friend and foe alike. The war, however, interfered even with the smuggling. And, as Thiers said, "The money which accumulated in the vaults of the Spanish governors of Mexico and Peru, came no more to Cadiz, Bayonne, Paris, or London."² To set this silver in motion so that it would flow freely across belligerent lines became the special task of the international financiers. Like the modern munition manufacturers, the financiers of the Napoleonic period were able to continue their international negotiations across the belligerent lines of petty nationalism.

The man who played the most spectacular part in these international financial schemes was Gabriel-Julien Ouvrard, a bold business man with a flare for speculation. With a fair fortune made he turned to government contracts and became *Munitionnaire General* of the Marine in 1797. When the Spanish fleet was stationed at Brest he also undertook the project of provisioning it. And upon its return to Cadiz, he

¹R. B. Mowat, *The Diplomacy of Napoleon* (London, 1924) p. 25.

²M. A. Thiers, *The History of the Consulate and the Empire Under Napoleon* (2 vols. in one, London, 1875), II, 8-9.

continued, "so skilfully," says Vincent Nolte, "that at the conclusion of the contracts he had put in his pocket a clear gain of fifteen millions of francs."³

It was in provisioning the Spanish fleet that he first became interested in Mexican silver. While he was ostensibly helping the governments of France and Spain he saw the chance of making a pretty penny for himself. About four million piastres⁴ of the Spanish debt to him were in royal drafts of the Mexican treasury. He therefore planned to go in person to cash his notes.⁵

Ouvrard, however, had come under the suspicion of Napoleon who ordered his arrest. When Bourrienne, Napoleon's secretary, asked him if he had any proof against the banker, Napoleon replied: "Proofs! Is he not a contractor? He must disgorge! All these contractors are so many knaves. How have they made their fortunes? At the expense of the state. . . . They have millions; they wallow in insolent luxury; while my soldiers have neither bread nor shoes! I'll no more of that."⁶ Bourrienne may not have expressed Napoleon's exact words, but he probably expressed his sentiments.

Ouvrard's arrest, however, the first of a series of arrests, was not of long duration. After Ouvrard had loaned ten million francs to the Directory, Napoleon asked him for twelve million more. Ouvrard refused, whereupon Napoleon denied him the special passport to Mexico which he had requested.⁷ Ouvrard then arranged to have his younger brother, Francois, already a successful merchant in Philadelphia, go to Mexico as his agent to collect the Spanish debt. Francois was well received and found the four million piastres already earmarked for his elder brother. He saw more, millions which had accumulated during the war.⁸ His com-

³*Fifty Years in Both Hemispheres* (New York, 1854), pp. 58-59; new edition (New York, 1934), listed hereafter as *Memoirs*. See also under "Ouvrard" in Larousse, *Dictionnaire Universal*, XI, 1593.

⁴Approximately equal to American dollars.

⁵Nolte, *Memoirs*, p. 66.

⁶L. A. Fauvelet de Bourrienne, *Memoirs of Napoleon Bonaparte* (from the French by John S. Memes, 3 vols., New York, 1892), II, 112-118; see under "Ouvrard" in Larousse for a slightly different version, XI, 1593.

⁷Bourrienne, *Memoirs*, II, 113; "Ouvrard" in Larousse, XI, 1593.

⁸Gabriel-Julian Ouvrard, *Memoirs* (3 vols., Paris, 1826-1827) I, 65-66; Nolte, *Memoirs*, p. 67; Bourrienne, *Memoirs*, II, 114.

prehensive report on the resources of Mexico pleased his elder brother, who compared it with those of Humboldt and Bonpland.⁹ There in Mexico lay the destiny of Napoleon, Ouvrard thought, and there were the resources which he uselessly sought in European conquest.

Napoleon's gateway to success was therefore to be through Spain. This was later to be accepted by Napoleon himself, but in the meantime he tried to reestablish the French colonial empire in Louisiana, only to give it up again when war was resumed with England. The money which he received for Louisiana was quite inadequate for his needs, especially if he were to invade England. After long and tedious negotiations with the dilatory and unfriendly Godoy, France secured a subsidy treaty from Spain on October 19, 1803.¹⁰ In the meantime he called upon Ouvrard for one loan after another. By 1804 Ouvrard and his associates were reported to have advanced between one and two hundred million francs.¹¹

Nevertheless, the French government continued to face financial difficulties. Barbé-Marbois, the secretary of the treasury, explained to Bonaparte that a part of the difficulty was due to Spain's failure to pay her subsidy. The First Consul considered using a threat again, as he had to get the subsidy treaty, but he was in need of the money "immediately and regularly." He then turned to the *Compagnie des Négociants Réunis*, and on April 4, 1804, this Company assumed the responsibility of paying the Spanish subsidy up to the amount of 32,000,000 francs. Vanlerberghe and Desprez were to continue handling the government contracts for supplies, while Ouvrard undertook the task of collecting from Spain, in accordance with his own method. They were, however, to have the notes of the French receivers-general as security for the whole amount, giving them up as Spain paid.¹² Napoleon would get his money, which the Spanish colonies

⁹*Memoirs*, II, 114.

¹⁰Fugier, *Napoléon et l'Espagne, 1799-1808* (2 vols. in one, Paris, 1908), I, 184-245.

¹¹Bourrienne gives the amount as being 102,000,000, *Memoirs*, II, 114; Larousse, under "Ouvrard", gives it as 200,000,000, XI, 1593.

¹²André Fugier, *Napoléon et l'Espagne*, I, 283-284, II, 8-9. Cf. also Ouvrard, *Mémoires*, I, 80; Bourrienne, *Memoirs*, II, 114; and "Ouvrard" in Larousse, XI, 1593.

would have to supply, with Spain and Ouvrard as the intermediaries.

When Ouvrard arrived in Madrid in October he found the Spanish treasury quite empty. It was so thoroughly depleted that the King could not raise sufficient funds for his journey to his pleasure palaces. Ouvrard took advantage of the situation to win royal favor by immediately supplying the necessary funds for the journey. Then he obtained an audience with Godoy, the favorite of the Queen and the most powerful man in the Spanish government. Ouvrard assured him that "he was among the very men of whom Napoleon liked to form Kings." Godoy told him that he was interested in the success of his mission and promised his support,¹³ but for some time this remained only a Spanish promise.

However, the financial situation in Spain was becoming critical, giving Ouvrard an advantage, for he alone seemed to be able to offer a solution, although at a tremendous price. The seriousness of the financial crisis had been increased by the British interference with the transport of treasure from the colonies. England and Spain were not yet at war, but England suspected that the colonial wealth was being used for the support of Napoleon, and when she "insisted on the right of searching four Spanish frigates returning from Mexico to Cadiz with treasure," a battle followed, and Spain shortly thereafter declared war.¹⁴ This naturally increased the difficulty of transporting the colonial metals to Europe. Spain was short of funds and short of food and helpless.

Ouvrard realized that a loan was necessary, but the only source for the repayment of this loan lay in the mines of Mexico and Peru, a source which could be made available only by connivance with the bankers of neutral and enemy countries. But to win the support of Godoy, Ouvrard stooped to threats and made him agree to accept his colossal demands, which would help friend and foe alike, but particularly Spain and the speculators.¹⁵

¹³Nolte, *Memoirs*, pp. 70-71.

¹⁴Bourrienne, *Memoirs*, II, 47. More details are given by Fugier, *Napoléon et l'Espagne*, I, 290-295.

¹⁵Fugier, *Napoléon et l'Espagne*, I, 230; Nolte, *Memoirs*, p. 72; Ouvrard, *Mémoires*, I, 85-94.

A preliminary agreement was made on October 21, 1804, to provide for the payment of the Spanish subsidy.¹⁶ First M. Ouvrard made sure of his claims to the Mexican silver by obtaining ample commercial guarantees. He demanded "the exclusive monopoly of the commerce with the Spanish-American colonies; secondly, the free exportation of all gold and silver stored up there belonging to the government; and, thirdly, full power to make loans even in America, under the guarantee of the Financial Bureau existing in Spanish America. . . ."¹⁷ Napoleon informed Barbé-Marbois on November 18, 1804, that Ouvrard had accomplished all that he wished in Madrid;¹⁸ but Ouvrard wished for more.

Having provided for the payment of the French subsidy, he proceeded to make plans for the reorganization of the Spanish financial system and the reestablishment of her credit. This was to be done as a *private* venture of the Associated Merchants. The preliminary agreements for the second treaty had been made by November 26, 1804. In twenty-eight articles the commerce of Spanish-America was transferred to Ouvrard and his associates.¹⁹ A special commercial house for the general supervision of the business was to be established at Bordeaux under the direction of his brother, Francois, and under the control of Manuel Sixto Espinosa, the Spanish representative for the King. Other commercial houses to be established at convenient places, such as Hamburg and New York, indicated the scope of the business. For the duration of the war this international company had the exclusive privilege of supplying the chief posts of Spanish America with all their needs, and, according to Article VI, "the privileges of extracting from those colonies, and under neutral flags, all the commodities, productions and matters of gold and silver that they can produce." While this is perfectly astounding it is nevertheless in keeping with the Spanish system of selling monopolies. The profits of the venture were to be divided between King Charles IV and Ouvrard, for the King was now a business partner of this French speculator.²⁰

¹⁶Fugier, *Napoléon et l'Espagne*, II, 10; Ouvrard, *Mémoires*, I, 94.

¹⁷Nolte, *Mémoirs*, p. 71; Fugier, *Napoléon et l'Espagne*, II, 10.

¹⁸Fugier, *Napoléon et l'Espagne*, II, 11.

¹⁹Ouvrard, *Mémoires*, II, 135-142.

²⁰Fugier, *Napoléon et l'Espagne*, II, 11-12.

Ouvrard next busied himself to get domestic and foreign approval for his associated merchants. Commercial representatives were to be sent to London and to the United States to pave the way.²¹ Ouvrard himself hurried back to Paris, and in April, 1805, to Amsterdam to win the necessary support of the great banking and commercial firm of Hope and Company. The two heads of the Company, Mr. P. C. Labouchère and Mr. John William Hope, were amazed at the magnitude of Ouvrard's concessions and asked for two days to consider his astounding proposals.²² By May 6, 1805, Labouchère had drawn up a plan which met with the approval of Ouvrard. Hope and Company would undertake the negotiations to convert the royal bills of exchange on Mexico, and make use of the trade licenses for a five per cent commission, they to pay the expenses and turn the rest over to the Spanish crown.²³ Here then was a prospect for Napoleon to get his Spanish subsidies, providing the bankers could bridge the Atlantic.

The success of the venture would finally depend upon the coöperation of England and France while the two were at war. To get Pitt and Napoleon, locked in a death struggle, to cooperate with the international speculators in order to get financial aid appeared to be a truly fantastic ambition. But such was the ambition of Ouvrard, who relied upon Hope and Company to bridge the gap. The plan was to get permission from the British government to transport silver from Mexico to England. Pitt was at first decidedly opposed to the plan. He would rather pay twice the amount for silver than to cooperate with an ally of Napoleon. Pitt reconsidered after recognizing that England's greatest needs were commerce and prosperity. He knew, said Ouvrard, "that commerce was his ally."²⁴

Silver was scarce in England, and the East India Company found itself greatly handicapped thereby.²⁵ Francis Baring, head of the great London banking firm of Baring Brothers, was a director of the East India Company and also closely

²¹Ouvrard, *Mémoires*, I, 108.

²²*Ibid.*, I, 113; and Noite, *Memoirs*, p. 74.

²³Ouvrard, *Mémoires*, I, 113.

²⁴*Ibid.*, I, 109.

²⁵Thiers, *Consulate and Empire*, II, 9.

associated with Hope and Company, with which he could share in the commercial advantages of Ouvrard's Spanish contracts.²⁶ Ultimately this affair would aid both Spain and France, but the advantages to the British merchants were too great to resist. However, it is interesting to note that England had gone to war with Spain largely because of the Spanish subsidies to Napoleon, which she was now helping to provide.²⁷ This may not have appeared to be patriotic, but, at least, it did appear to be advantageous.

The Spanish government had been forced to lift its restrictions against foreign and neutral commerce. And the Mexican officials were undoubtedly happy to encourage a commerce which promised them lucrative commissions.²⁸ Now this trade was also to be opened to the enemy. Of course it was difficult for some of the officials to consider the bearers of these commercial blessings as enemies. This may help to explain how four British frigates were dispatched to Vera Cruz, in spite of the war with Spain, "and without any interruption took on board about fourteen millions of piastres from the treasury of Mexico, and brought the treasure back to England."²⁹ This amount was only about one-fourth of the treasure to be taken out of Mexico.

Under a second plan, the rest was to be transferred to the United States, which controlled much of the carrying trade at that time. The silver would serve as a basis for the purchase of vast amounts of colonial products which the Americans could then supply to the Europeans. The products would have to be carried as neutral property to be safe from England and Napoleon, and the bills of exchange were to be handled by Hope and Company. This was, of course, before the Orders in Council and the Continental System had closed Europe to neutral trade. The enterprise of the American merchants, stimulated by Mexican silver and European needs, and directed by international bankers, would solve the financial problems of both belligerents, but satisfy neither. Mexican silver was the keystone of this commercial arch being built over the warring nations of Europe.

²⁶Nolte, *Memoirs*, p. 75.

²⁷H. H. Bancroft, *Mexico* (6 vols., San Francisco, 1886), IV, 32, note 46.

²⁸*Ibid.*, IV, 30, note 43.

²⁹Nolte, *Memoirs*, pp. 77-78.

Having made the general agreements, the Associated Merchants proceeded to arrange the details of their highly complicated commercial system. The Barings and Hope and Company worked together, each having a wide connection with the best commercial houses on both sides of the Atlantic.³⁰ Mr. David Parish, a likeable young man and an intimate friend of Talleyrand, was chosen to handle the negotiations in the United States. He arrived in New York in November, 1805, where there were already rumors of a great commercial project being under way. Here he met his two chief assistants: Mr. Lestapis, a friend, destined for the Vera Cruz post, and Mr. Vincent Nolte, for the New Orleans post. Mr. Parish selected Philadelphia as his headquarters because of its convenient location between New York and Baltimore.³¹ Vincent Nolte was "to receive the coin as it arrived, to dispatch the cargoes of German, English, and French manufactured goods coming in from Europe to Vera Cruz under accompanying licenses, and to make over to the merchants in New Orleans as many licenses as the opportunity would admit." Mr. Parish next made the necessary arrangements with American firms to carry on the project as neutral traders. Among these were the best correspondents of the firms of Hope and Baring, notably Willing & Francis in Philadelphia, Robert Gilmore & Sons in Baltimore, and James and Thomas H. Perkins in Boston. Many others were willing to participate.³²

Lestapis and Nolte left for their posts immediately after receiving their instructions from Parish in New York. Lestapis travelled under an assumed name, that of José Gabriel de Villanueva. This was the name of a former associate in a Spanish firm at Santander, whom he resembled and whose birth certificate and other papers came into his possession after his associate's death. This subterfuge was expected to prevent the difficulties which might have arisen upon the arrival of a Frenchman in Mexico. Labouchère, of Hope & Company, thought "that by this means one might go on, and even empty the Mexican treasury, without being disturbed."³³

The Commercial enterprise was already under way when

³⁰Alamán, *Historia de Méjico*, (5 vols., Méjico, 1849-1852), I, 144.

³¹Nolte, *Memoirs*, pp. 82, 95; Ouvrard, *Mémoires*, I, 113-114.

³²Nolte, *Memoirs*, pp. 96-98.

³³*ibid.*, p. 98.

the agents reached their posts, and a whole cargo of German linens had reached New Orleans before Vincent Nolte was there to take charge of it. "I had not yet passed a fortnight in New Orleans," he wrote, "and had given no one occasion to conjecture what my object was in coming to the place, when the news was all at once buzzed about that a schooner, under the American flag, six days from Vera Cruz, had arrived in the Mississippi, with 150,000 Spanish dollars on board for Vincent Nolte." This ship was followed by another with \$200,000 and a third with \$150,000. The young Nolte then experienced a period of unusual popularity.³⁴

He was in New Orleans during the Burr conspiracy and came under the suspicion of General Wilkinson, who assumed that he was to supply the British funds for the enterprise. When he discovered that he was under suspicion, Nolte went directly to General Wilkinson to clear himself. He, in turn, came to the conclusion that Wilkinson "was an imposter, and most likely deeply implicated himself in Burr's plot."³⁵

Ouvrard returned to Spain after his negotiations with Hope and Company, and won additional concessions for the associated merchants. He gained control of all the lead and quicksilver production of Spain, as well as the supplying of tobacco for his company.³⁶ He was being rewarded for making the Mexican treasure available for the credit of Spain and for putting Spain "in a position to discharge with facility the yearly subsidy it owed to France."

However, there was too much private gain and not enough for the treasury of France to satisfy the demands of Napoleon. Speaking of Ouvrard's contracts, Vincent Nolte said:

It does not require any extraordinary talent for calculation to perceive that this likewise placed the keep of the Spanish Treasury in Napoleon's hands, and that he could retain them in his possession so long as he saw fit. He thus had indirect control of the means which his war with England, and the watchfulness of her fleets, had hitherto made inaccessible to him.³⁷

No other man had as much influence in Spain as Ouvrard, says

³⁴*Ibid.*, pp. 90-91, 98.

³⁵*Ibid.*, p. 93.

³⁶*Ibid.*, pp. 99; and Ouvrard, *Mémoires*, I, 114-118.

³⁷Nolte, *Mémoirs*, p. 99.

his admirer Nolte, and Ouvrard admits it himself, "but the mightiest genius of the age" failed to appreciate it.³⁸

Nevertheless, the finances of France were in a very bad state at the end of the year 1805, and whom should Napoleon blame but the financiers. He disliked merchants and bankers in general, and Ouvrard in particular. After seeing the seriousness of the financial situation in France, Madelin quotes Napoleon as saying: "Wealth today is the fruit of robbery and plunder," and it made him foam at the mouth to think of these "robbers headed by parvenu speculators like the Ouvrards . . . and a dozen others."³⁹ There was trouble brewing.

Ouvrard's associates in Paris, particularly Desprez and Valerbergh, who had continued furnishing supplies for the government, took the government notes to the Bank of France to have them discounted.⁴⁰ The Bank met part of the shortage by increasing its issue of bank-notes; at first it was "obliged to triple and eventually to quadruple its issue." The bank-notes naturally began to decrease in value, and it was not long until there developed a real financial crisis.⁴¹

Even Madelin, who holds Ouvrard and the Associated Merchants largely responsible, admits that the public distrust of Napoleon's expenditures was partly to blame. A rumor had been spread that the Emperor, preparing for his war against Austria, "had demanded from the Bank the delivery of huge sums of the gold reserve to finance the opening of hostilities and the payment of the troops."⁴² The Bank might have weathered the storm except for the heavy demands having been made by the speculators. At least, such was the opinion of Napoleon. When the seriousness of the situation became apparent, Godoy, seeing Ouvrard in danger, suggested that he depart for America. But Ouvrard must have had

³⁸*Ibid.*, p. 100; Ouvrard, *Mémoires*, I, 118.

³⁹Louis Madelin, *The Consulate and the Empire, 1789-1809* (New York, 1934), p. 39.

⁴⁰Ouvrard, *Mémoires*, I, 126, 129-130; Thiers, *Consulate and Empire*, II, 10.

⁴¹Mlot de Melito, *Memoirs* (New York, 1881), p. 388.

⁴²*Consulate and Empire*, 258-259. Cf. also Baron Pelet (de Losere), *Napoleon in Council or the Opinions Delivered by Bonaparte in the Council of State* (London, 1837), p. 388.

confidence in his case since he went instead to Paris where he faced the irate Emperor.⁴³

After having defeated the Austrians and signed the Peace of Pressburg, Napoleon returned to Paris, where he said that he found everything satisfactory except the finances.⁴⁴ He called a council meeting where he assembled his financiers, and he made them personally responsible for the deficits of the state. Ouvrard tried to explain that he was not to be held responsible for the acts of Desprez, but explanations were not what Napoleon wanted. He then tried to make some kind of an agreement with the Emperor for putting the state finances in order, whereupon Napoleon told him that he had degraded royalty to the level of merchants. Ouvrard, unabashed, replied that commerce was the life of the state, and quite befitting royalty. Napoleon's comment was: "*Sotisse, que tout cela.*"⁴⁵

The financiers had no way of resisting the will of the Emperor, who was reported to have said: "If these men do not give up to me everything they owe, and Spain does not pay me all she owes, I shall send them to Vincennes, and an army to Madrid."⁴⁶ It was useless to warn Napoleon that the money would not be available if the company of the Associated Merchants were dissolved. After all, the Baring Brothers and Hope and Company were not dealing with Napoleon nor the state of France, and there lay the channel for the Spanish money from Mexico. Napoleon's response to this warning was, according to Ouvrard: "Very well! I shall go to Madrid; with 500,000 men one does what one wishes."⁴⁷ He would show these men; he would imprison the bankers, collect from Hope and Company, conquer Spain, and whip England.

Thus broke down, says Ouvrard, "the greatest commercial and political enterprise that had ever been conceived and put into practice."⁴⁸ One might conclude from this estimate that Ouvrard was a bit of a Napoleon himself. It was with considerable difficulty that he began making the required

⁴³Ouvrard, *Mémoires*, I, 116-124.

⁴⁴Miot de Melito, *Memoirs*, p. 393.

⁴⁵Ouvrard, *Mémoires*, I, 129.

⁴⁶Nolte, *Memoirs*, p. 103.

⁴⁷Ouvrard, *Mémoires*, I, 131-134.

⁴⁸*Ibid.*, I, 134-135.

payments to the government, and when he was unable to continue, he was imprisoned.

Napoleon was given 24,000,000 francs by Eugenic Izquierda, Godoy's special agent in Paris, in May, 1806.⁴⁹ But the system of the tribute was breaking down. In Mexico there had been a great deal of protest against the demands of the Spanish government. The agents of Hope and Company were doing well for a time, but the flow of silver was not to run smoothly until they could "empty the Mexican Treasury," as predicted by Labouchère. Bancroft rather boldly states that "never had royal license to fleece the colonists been more barefaced; never had the robbery of a people by their rulers been more merciless or infamous."⁵⁰

While there has been considerable criticism of Ouvrard's financial methods, particularly by the admirers of Napoleon, there was also some justification for the criticisms of Napoleon's arbitrary acts in bringing ruin to war profiteers, who might have solved his economic problems. Ouvrard said that Napoleon knew nothing about business and economics. For how could he destroy the means of controlling the resources of Mexico, and leave them to England, if he knew anything about economics.⁵¹

And Vincent Nolte adds:

Had not Napoleon's violent and arbitrary dissolution of the close relations existing between Ouvrard and the Spanish Court cut off the first productive moneyed resources of the Spanish crown, the silver mines of Mexico would, after the unavoidable delay of a few months, perhaps of a single year, required to complete the necessary preparations, have long been made tributary to the treasury of France.⁵²

What Napoleon could not do in a business way, he tried to do in a military way; he would conquer Spain and control the Indies; but he failed, even there.

⁴⁹Alamán, *Historia de Méjico*, I, 141; Bancroft, *Mexico*, IV, 30.

⁵⁰*Mexico*, IV, 30.

⁵¹Ouvrard, *Mémoires*, I, 134-141.

⁵²Nolte, *Memoirs*, p. 107.

THE SOIL CONSERVATION DISTRICTS LAW OF OKLAHOMA

LIPPERT S. ELLIS
Oklahoma A. and M. College

The advent of the Federal Soil Conservation Service in 1933 brought the problem of soil erosion rather suddenly and dramatically to general public attention. This is not to say that previous to that time soil erosion had not been recognized as a serious problem by agricultural engineers, agronomists, soils specialists, and other students of farm conditions. Quite the contrary. One can go into almost any county in the state and find a few farmers who started a terracing program on their farms soon after settling on their homestead. The extension engineers and agronomists have, for a number of years, urged farmers to farm on the contour, terrace the steeper slopes, and to carry on other farm practices which would tend to hold the soil in place and rebuild and conserve the fertility of the soil. Experiment Stations in many sections of the country have worked on the problem of controlling erosion for a number of years, and about ten years ago the United States Department of Agriculture established a series of soil erosion experiment farms in various problem areas. The general problem which was intensified by the recent drought was brought more forceably to public attention by the operations of the Soil Conservation Service than had been possible previously.

THE DEVELOPMENTS OF THE DISTRICTS LAW

The Soil Conservation Service was created on August 25, 1933, with the approval of the National Industrial Recovery Act, which provided for the establishment of the service in the Department of Interior, where it operated to some extent as a relief organization for about a year and a half. The service was transferred to the United States Department of Agriculture on March 25, 1935, by order of the Administrator of the Public Works Administration. On March 27, Secretary Henry A. Wallace ordered a unification of all the activities pertaining to soil erosion in the Department of Agriculture. This included a transfer of the Erosion Control Experiment Stations from the Bureau of Chemistry and Soils

and the Bureau of Agricultural Engineering, the erosion nurseries from the Bureau of Plant Industry, and the emergency conservation work camps from the Forest Service to the Soil Conservation Service. Since that time much has been done through inter-bureau committees to coordinate all of the soil conservation activities of the Department of Agriculture. In their report of June 6, 1937, the inter-bureau committee recommended that, as soon as practical, all Soil Conservation activities of the Department should be carried on through legally constituted soil conservation districts. Secretary Wallace announced later that after July 1, 1937, no new soil conservation work would be started in the states except in connection with soil conservation districts. With this thought in mind, the Department, in cooperation with representatives from a number of states, drafted a standard Soil Conservation Districts Act, which was presented to the states with the recommendation that a state law be enacted at as early a date as possible.

The following statement by Philip M. Glick, Chief, Land Policy Division, Office of the Solicitor, U. S. Department of Agriculture, expresses the thought of the Department in asking states to enact Soil Conservation Districts laws. "The need for State Legislation in this field arises out of the fact that the problem of erosion cannot be adequately solved by work in widely separated areas. Unless State legislation provides a mechanism by which farmers can organize themselves for cooperative action, to apply on their lands the erosion-control practices observed on the demonstration projects of the Soil Conservation Service, the full benefits of the Federal program cannot be realized. In a word, State legislation is needed to assure permanent results from the expenditure of Federal funds."¹

THE OKLAHOMA LAW

Senate Bill No. 208, providing for the organization of Soil Conservation Districts in Oklahoma was introduced in the Sixteenth Legislature and finally passed and approved on April

¹Official Organ of the Soil Conservation Service, U. S. Department of Agriculture, Washington, D. C.; Vol. 3, No. 5, November, 1937. State Legislation for Erosion Control by Philip M. Glick, Chief, Land Policy Division, Office of the Solicitor, U. S. Department of Agriculture, Washington, D. C.

15, 1937. The law provides for a State Soil Conservation Committee, consisting of the President of the Oklahoma A. and M. College, Director of the Extension Division of the A. and M. College, the Director of the Oklahoma Agricultural Experiment Station, and the State Director of Vocational Agricultural Education. This committee may invite the Secretary of the U. S. Department of Agriculture to appoint one person to serve on the committee in an advisory capacity. The committee has the power to hold public hearings, to define the boundaries of each district, to encourage the organization of districts, to bring about an exchange of information and experience among the districts in the state, to coordinate the several districts' programs, insofar as this may be done by "advise and consultation", and to secure the cooperation and assistance of federal and state agencies in carrying on the work in districts.

Any twenty-five land-occupiers may petition the state committee to establish a district. Upon receipt of a petition, the state committee sets a date for a public hearing at which time farmers and other interested parties are given an opportunity of learning the details of the law and the way in which it is to be administered. The public hearing offers the committee an opportunity to learn just how the local people feel about the organization of a district, forms the basis on which the committee denies the petition or approves the organization of a district, and fixes the boundaries. If the committee approves the organization of a district, a date is set for a referendum, at which time all land-occupiers are privileged to vote for or against the organization of a district.

Each Soil Conservation District in Oklahoma is to be governed by a group of five supervisors, two of whom are to be appointed by the state committee, and three to be elected by the land-occupiers of the district. Each supervisor, whether elected or appointed, is to hold office for three years, and is to receive no compensation other than necessary expenses. The law provides, however, that a paid staff of technical workers may be provided for each district. Under the provisions of this act, a Soil Conservation District, "shall constitute a governmental sub-division of this State, and a public body corporate and politic, exercising public powers." However, the district does not have the power to levy taxes.

PROGRESS UNDER THE LAW²

Considerable progress has been made to date toward the organization of Soil Conservation districts in Oklahoma. The organization of 11 districts has been approved, and petitions have been received for the organization of 27 additional districts. Of this latter number, 16 are in some stage of organization and another district was voted down at the regular referendum. Supervisors have been appointed and charters issued in three of the districts so that they are now ready to proceed with the election of the three local supervisors. Committees are now at work drafting a work program for the first district organized. This work program will be suggestive only. It will be presented to the five supervisors for their consideration, and it is quite likely that the plan presented by the state committee will be changed materially, but it will give the supervisors a starting point.

GENERAL CONSIDERATIONS

It is difficult to foresee at this stage of progress just how the districts' program will operate or how successful it will be in coping with the problem of soil erosion. The soil conservation district does offer the local people a means by which they may organize for the purpose of attacking the problem cooperatively. There are still large numbers of people who undoubtedly think of the soil conservation districts program as an opportunity to secure something for nothing. Little of a vital nature will be accomplished in this program until a substantial majority of the local people visualize it as an opportunity for doing something for themselves.

The size of the districts has been discussed a great deal, but there appears to be no general concensus of opinion as to what constitutes a proper size for a soil conservation district. The personal belief of the writer is that the chief factor for consideration is a district in which it will be possible for the local people to cooperate in a whole-hearted and harmonious manner. Thus far only one district has been voted down in Oklahoma. That proposed district consisted of the four counties in the northeastern part of the state and a part of a fifth county. The vote of the local people was almost

²Progress to April 15, 1938.

four to one against the organization of this district. A second district carried by only two votes. That proposed district consisted of a small part of the northeast corner of Garfield County.

The first of these two districts was undoubtedly too large and was the major factor in the defeat of that district. Several factors were responsible for the near defeat of this other district, but the small size does not appear to have been a major factor in that case. I doubt whether it would be possible to have a district that is too small. I do think it is possible to have a district too large, and by too large is meant a district that is of such size that it is not easy for the local people to cooperate readily on a unified program.

The matter of boundaries is another question of importance. There are some groups that contend that the districts should be organized on the basis of water shed areas only, with no regard to county lines. Others feel that county lines should be adhered to. Some even think that the county unit is the best and should be followed. The opinion of the writer is that it makes little or no difference. The main objective is to have an area in which the local people will cooperate. It is quite obvious to anyone familiar with the program that it would be impossible to serve any one major drainage area in the state immediately or even in the very near future.

In the final analysis, each farm represents a drainage basin and frequently there are several small drainage basins on one farm. The main objective, therefore, should be that of getting the work started by setting up a district so that the farmers may avail themselves of such assistance as may be accessible through any state or federal agency. From the point of view of the physical problem itself, the drainage basin is of course the logical basis on which to organize a district. Farmers, however, are accustomed to working on a county unit basis and it is altogether possible that better cooperation in this program may be secured by organizing districts on a county unit basis. Districts have been organized on both bases in Oklahoma and time should throw some light on this question.

The districts program offers an opportunity to coordinate the activities of several agencies interested in the welfare of

the farmers. Statements by officials of the United States Department of Agriculture indicate that they look upon the soil conservation district as an agency through which all federal and state agricultural agencies might function in the years ahead. There is unquestionably much that needs to be done by way of coordinating the activities of state and federal agencies, and it is altogether possible that the conservation district will aid in that respect. In Oklahoma the program has already been responsible for bringing the College, Experiment Station, Extension Division, and Soil Conservation Service into closer and more harmonious relationships.

The Oklahoma law wisely provides that the soil conservation districts are to be operated on a voluntary basis when first organized. The law also provides that the supervisors of a district may formulate ordinances providing for land-use regulations in the district. Such regulations cannot be put into effect until they have been voted upon by a majority of the land occupiers in the district. Once the ordinances have been passed by a majority of the land occupiers, they have the force of law and penalties are provided for violation. After attending a number of public hearings in various sections of the state, it is apparent that the farmers of Oklahoma are not ready to vote land-use regulations upon themselves at this time. The farmers are anxious to keep the plan on a voluntary basis, but the time may come when the majority will be willing to resort to ordinances as a means of preventing the practices of the reluctant or ignorant few from endangering the bulk of the lands in a given district. In the meantime, farmers are undertaking a noble experiment in cooperation and self-direction, and they are learning something about the social aspects of land and its use.

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GOVERNMENT CORPORATIONS IN THE UNITED STATES

C. HERMAN PRITCHETT

Social Science Research Council

An outstanding development in the recent administrative experience of the United States Government has been the increased use of government corporations in carrying on the public business. While the undertaking of new activities is a common feature of governmental experience, changes in the administrative structure of government are made difficult by the natural resistance to change and the tendency toward uniformity that characterizes all institutions. "The functions of government," it has been well said, "are much more susceptible of modification than is its anatomy."¹ Therefore it is all the more interesting to note the adaptation of the corporate form of organization, developed by private business and industry, to public purposes in the administration of important governmental activities. The extensive use of the corporate device has been responsible for a real revision in the "anatomy" of government administration and the creation of a type of agency, which in its general powers and in its administrative and financial structure differs markedly from the characteristic government departments, bureaus, and commissions.²

The modern American experience with government owned corporations goes back only to 1904 when, as an incident to the building of the Panama Canal, the United States purchased the Panama Railroad Company. During the World War a number of corporations were created and utilized by the government, including such important agencies as the Emergency Fleet Corporation, the United States Grain Corporation, the War Finance Corporation, the United States Housing Corporation, and the United States Sugar Equalization Board. The post-war decade saw the establishment of the Inland Waterways Corporation and the Federal Intermediate Credit

¹C. H. Woody, *Recent Social Trends in the United States* (New York, 1933), chap. xxv, p. 1274.

²For a general discussion of government corporations, see H. A. Van Dorn, *Government Corporations* (New York, 1926); Paul Webbink, "Government Owned Corporations," *Encyclopedia of the Social Sciences*.

Banks. The economic depression beginning in 1929 culminated in another emergency as serious as that of war, and again extensive use was made of government corporations. The Reconstruction Finance Corporation, created in 1932, was the first such agency established during this period, but after the beginning of the Roosevelt administration the corporate device was used so frequently that it came to be regarded almost as an invention of the New Deal. In spite of numerous liquidations, there were in existence on October 1, 1936, 93 corporations organized under federal or state charters, in which the United States owned all or a majority of the stock, and on whose boards of directors no members were elected by private interests.³

If one characteristic of government corporations in the United States has been the tendency to utilize them during periods of emergency, equally important is the fact that they are generally employed for the conducting of enterprises not traditionally governmental in character. Extension of credit, operation of railroads and barge and shipping lines, insurance of bank deposits, housing, dealing in surplus commodities, sale of electricity, production of spruce, large-scale merchandising operations—these are some of the activities in which government corporations have engaged.

The reason for the use of the corporate device in emergency situations and for the conduct of commercial or service activities is that for projects of this character incorporated agencies appear more appropriate, and are believed to operate with greater administrative effectiveness than the regular government agencies. The President's Committee on Administrative Management has stated that in government corporation there is possible "freedom of operation, flexibility, business efficiency, and opportunity for experimentation" to an extent "not often obtainable under the typical bureau form of organization."⁴ The principal administrative advantages which are characteristic of the government corporation can be described under four headings.

³Herbert Emmerich, "Government Corporations and Independent Supervisory Agencies," *Report of the President's Committee on Administrative Management* (Washington, 1937), p. 305.

⁴*Report of the President's Committee on Administrative Management*, *op. cit.*, p. 43.

First, government corporations are customarily financially autonomous units, with a financial structure and financial powers approximately those of private corporations. The ordinary government agency operates within a strict financial framework. Its funds are secured through congressional appropriation, a process involving detailed examination of estimates by the Bureau of the Budget and hearings before the appropriations committees of both houses of Congress. The appropriation act often goes into great detail in itemizing the purposes for which expenditures may be made. Failure of Congress to appropriate funds for an agency automatically ends its existence. A regular government agency cannot borrow money. If in the course of its activities it takes in any revenues, they must be immediately covered into the Treasury unless special provision is made, as in the case of the Post Office Department. Any appropriation remaining unspent at the close of the fiscal year likewise reverts to the Treasury. Accounting procedures and methods must follow the regular government standards.

Government corporations, on the other hand, are generally financed through subscriptions to stock, and are thus equipped with capital which may be used at the discretion of the corporation's officials. Corporations are expected to be self-supporting enterprises and to be no burden upon the Treasury, even in cases where it has supplied their initial capital. If the corporation is a credit agency, it can accept collateral which it would not be appropriate for the Treasury to receive. Corporations usually have the right to borrow on their own obligations, and to use the income derived from service charges for payment of their necessary expenses. Ordinarily they devise their own systems of accounts, suitable for the type of enterprise they are conducting. They can issue balance sheets and financial statements which make it possible to judge the efficiency of their work as a whole.

Second, incorporation of a government agency has usually operated to give it a semi-private status and to confer upon it some degree of freedom from the statutes, regulations, and procedures which are binding upon ordinary government agencies. The expenditure of government funds, the awarding of contracts, the procurement of supplies, and the general conduct of government business are controlled by a great

number of statutes adopted for the praiseworthy purpose of preventing misuse of public funds but which, because of their strictness and the formalism they impose, too often bind government administration in red tape and sacrifice efficiency to scrupulous legality. The Comptroller General, under his authority to settle and adjust accounts, conducts a strict audit which is primarily an examination of each expenditure to determine whether it was made pursuant to congressional authorization. Government corporations have usually escaped the Comptroller General's audit entirely, or have been released from complying with the regulatory statutes ordinarily applicable. Likewise, government corporations are usually permitted to employ and manage their personnel without regard to civil service.

Third, the government corporation affords considerable opportunity for regional decentralization and local autonomy. In the familiar departmental setup all lines of authority must run to the secretary's office in Washington, but a corporate entity will in most cases have its main offices in its area of operations and its center of gravity within the region which it serves. This type of decentralization permits decisions to be reached more speedily, and makes it possible to work out programs with a more intimate knowledge of the actual problems involved. A government corporation can employ the form of overhead control characteristic of private corporations—a general manager in charge of administration and responsible to a policy-forming board of directors. In some corporations it has been possible to devolve authority and responsibility upon patrons by representation upon regional boards.

Fourth, the corporate form provides a convenient means for limiting in various degrees the sovereign immunity of the federal government when it undertakes activities of a business or commercial nature. A government corporation can be authorized to pay state taxes, to sue and be sued in the courts, and can be made subject to state laws pertaining to its particular activities.

These are the principal characteristics of the corporate form of organization which have made it such an effective organ for administering emergency activities and commercial services. A short sketch of the administrative experience of

a few important government corporations will serve to illustrate more concretely the special status which these agencies have achieved.

The Panama Railroad Company, a corporation chartered under the laws of New York in 1849, came into the possession of the United States in 1904, and the existing corporate organization was retained to facilitate the operation of the railroad.⁶ Since the establishment of a permanent organization for the Canal Zone, the corporation has been under the control of the Secretary of War, who appoints the directors and is himself a member of the board. There are thirteen directors, all with considerable knowledge of and interest in the corporation's affairs, and the board has functioned admirably in the field of policy-making. The actual administration of the transportation, merchandising, and other activities of the corporation is in the hands of the president, located in the Canal Zone, and the vice-president, located in New York.

Under government ownership the corporation has continued to conduct its business much like a private corporation, and to exercise the powers given by the charter of incorporation. The Attorney General early held that employees of the corporation were not "employed by the United States."⁷ In a subsequent decision involving the lowering of rates on railroad, the Attorney General gave the following interpretation of the corporation's status:

If we observe the fiction and treat the railroad as a wholly independent corporation—which has been the course pursued in past dealings with it . . . the question turns upon the power of the directors. No federal statute exists by which their power is defined. It must be determined, therefore, by reference to the ordinary principles of corporation law.⁷

The railroad is not required to recruit its employees through the civil service, though it has done so to some extent. It is not required to follow government purchasing regulations, a freedom quite necessary in buying for its large department

⁶For a study of the administration of this corporation, see M. E. Dimock, *Government-Operated Enterprises in the Panama Canal Zone* (Chicago, 1934).

⁷25 Op. Atty. Gen. 466.

⁷30 Op. Atty. Gen. 508.

stores in the Canal Zone. Its accounts are not subject to audit by the General Accounting Office; a private accounting firm conducts an audit at the New York offices, and the accounting organization on the Isthmus is merged with that of The Panama Canal. The corporation is self-supporting financially, and pays dividends to the government. Congress has tended to let the railroad run its own affairs, although a notable example of intervention occurred in 1932, when the company was assessed a dividend of \$2,800,000 for the construction of a dam in the Canal Zone. In general, the administration of the Panama Railroad Company is in many respects more characteristic of a private company than of a government department.

A second important government corporation is the Emergency Fleet Corporation, set up during the World War to undertake the government's tremendous ship construction and operation program, and continued after the war as the Merchant Fleet Corporation. This corporation was created by officials of the Shipping Board with an initial capitalization of \$50,000,000.⁸ The corporation took the position that this capital constituted a revolving fund to be used without further congressional authorization, and that its status was that of a private corporation not subject to government regulatory statutes and restrictions. The policy of the Fleet Corporation, however, was to comply with all such statutes insofar as "they are not in conflict with and do not, when applied, act as obstacles to the efficient operation and maintenance of Government owned vessels which are engaged in a commercial enterprise of a highly competitive nature."⁹

Congress gave support to the claims of the corporation for special status by providing that the Comptroller General should audit the financial transactions of the Fleet Corporation "in accordance with the usual methods of steamship or cor-

⁸In addition to its capital, the corporation subsequently received over \$3,000,000,000 in appropriations to finance the ship construction program and later to meet the corporation's deficit in its merchant fleet operations. However, the corporation was given the same freedom in spending appropriated funds as it enjoyed in connection with its original capital (40 Stat. L. 183).

⁹*House Document 321, 72nd Cong., 1st sess.*, p. 3.

porate accounting."¹⁰ The Comptroller General recognized that the type of audit thus provided for was an unusual one, and did not permit him to exercise his usual power to settle and adjust accounts. He refused to exercise such power when suit was brought against him to compel his office to pass on claims against the government arising out of Fleet Corporation contracts, on the ground that he had neither the power nor the duty to do so. The Supreme Court approved this position, stating in the course of its opinion in this case:

Indeed, an important, if not the first reason for employing these incorporated agencies was to enable them to employ business methods and to conduct their operations with a freedom supposed to be inconsistent with accountability to the Treasury under its established procedure of audits and control over the financial transactions of the United States.¹¹

Several other decisions of the Supreme Court were also to the effect that the Fleet Corporation was not to be treated as an ordinary government department.¹² On the other hand, the Supreme Court in several cases held the corporation to be representative of the government itself.¹³ Relying upon these decisions, the Comptroller General came to the conclusion that the Fleet Corporation acted at times as a private corporation, and at other times in a governmental capacity. In its operations as a shipping concern and in the administration of its transactions with outsiders, it could proceed as a private corporation, but its internal relationships would be subject to the limitations and regulations applicable to gov-

¹⁰42 Stat. L. 444; 44 Stat. L. 1083.

¹¹*Skinner and Eddy Corp. v. McCarl*, 275 U. S. 1 (1927).

¹²A suit against the corporation was not a suit against the United States (*Sloan Shipyards v. Fleet Corporation*, 258 U. S. 549 (1921)); employees of the corporation were not employees of the United States (*United States v. Strang*, 254 U. S. 491 (1920)).

¹³The corporation was entitled to the government rate on telegrams (*Fleet Corporation v. Western Union*, 275 U. S. 415 (1928)); defrauding the corporation was equivalent to defrauding the United States (*United States v. Walter*, 263 U. S. 15 (1923)). The legal problems of government corporations are discussed in an able article by John Thurston, "Government Proprietary Corporations," 21 *Virginia Law Review* 351-96, 465-503 (1935).

ernment agencies.¹⁴ Thus, although the Fleet Corporation was given a curious dualism of character, its special administrative status and semi-private nature were officially recognized.

The Inland Waterways Corporation is a particularly interesting organization, because before incorporation it existed as a regular government bureau, and so furnishes a "before and after" demonstration. From 1920 to 1924 the War Department carried on a barge line service on the Mississippi River through the agency of the Inland and Coastwise Waterways Service. The difficulties encountered in attempting to operate within the regular governmental framework were so great that Congress was asked to create a corporation to take over the enterprise. Under the corporate form of organization, it was stated, the corporation's capital would free the business from the hazards of annual appropriations by Congress and from the itemized allocations in appropriation acts. Likewise the capital would provide funds for unforeseen emergencies without an appeal to Congress, and additional capital could be secured by borrowing. The corporation would be free from the supervision of the Comptroller General and would enjoy more flexibility in contractual relations, both of these features being considered desirable in a business enterprise.¹⁵

Congress acted favorably on this request and created the Inland Waterways Corporation, to be under the direct control of the Secretary of War.¹⁶ The act made no provision for the usual board of directors, establishing merely an advisory board drawn from the region served by the barge line. However,

¹⁴*House Document 111, 71st Cong. 1st sess.*, p. 44. In accordance with this principle, the Comptroller General objected to various practices of the Fleet Corporation which violated federal statutes, such as failure to accept the low bid on stevedoring contracts, deposit of funds in private banks, failure to cover interest on deposited funds into the Treasury, and the purchase and carrying of insurance on automobiles. However, since the General Accounting Office had no control over the accounts of the corporation, rulings such as these were effective only when corporation officials chose voluntarily to conform with them. See *Annual Report of the Comptroller General*, 1931, p. 9.

¹⁵*Hearings before House Committee on Interstate and Foreign Commerce on H. R. 6647, 68th Cong., 1st sess.*

¹⁶*43 Stat. L. 360.*

provision was made for a more active board in 1935.¹⁷ The corporation has capital stock of \$15,000,000, and it has used this capital and conducted its business with practically the freedom of a private corporation. The act made no provision for audit of the corporation's accounts, either governmental or commercial, and as a result the Comptroller General has never attempted to exercise his auditing control over the corporation, or to enforce upon it federal regulatory statutes.¹⁸ Employees of the corporation are not under civil service.

A fourth important government corporation is the Tennessee Valley Authority. This agency, created in 1933 to undertake a broad program of development in the Tennessee River watershed, was given a corporate form of organization so that it might possess the same type of administrative characteristics and advantages as had been developed in the experience of earlier corporations. The conference report on the TVA bill contained these words: "We intend that the corporation shall have much of the essential freedom and elasticity of a private business corporation."¹⁹

In actual development, the TVA has been able to utilize only in part the various types of administrative advantages which may accompany corporate status. The TVA is not a financially autonomous unit like the Panama Railroad Company or the Inland Waterways Corporation, and its financial structure and powers are not typically corporate. The TVA was created without any capital stock. It must thus rely upon annual congressional appropriations for its funds, precisely as any regular government agency. It is true that the corporation was given the right to spend its revenues from the sale of hydroelectric power, but so long as the Authority's huge dam construction program is in progress, such revenues can furnish only a fraction of the total funds needed. It is

¹⁷M. E. Dimock, *Developing America's Waterways* (Chicago, 1935), pp. 112-13.

¹⁸In 1932 the House rejected an amendment which would have required all expenditures of the corporation to be accounted for and audited as in the executive departments (75 *Congressional Record* 10703).

¹⁹*House Report* 130, 73rd Cong., 1st sess., p. 19. For an account of the legislative history of the TVA Act, see an article by the author, "The Development of the Tennessee Valley Authority Act," 16 *Tennessee Law Review* 128-41 (1938).

also true that the corporation is authorized to issue bonds,²⁰ but up to the present time no use has been made of this power. Further factors are that there has been no surplus out of which reserves could be built up, and that complications arising from the multiple-purpose nature of the Authority's dams have made it impossible to issue commercial statements covering power operations.

With respect to federal regulatory statutes, the TVA has taken a position similar to that of the Fleet Corporation, namely, that it would conform "with all general statutes and Government regulations governing the use or expenditure of public funds insofar as such compliance does not substantially interfere with the efficiency of our operations."²¹ The Comptroller General, on the other hand, has demanded strict compliance with federal statutes, and has excepted all TVA expenditures which appear to his auditors to be without legal justification. He has maintained that the TVA as a corporation enjoys no special privileges not specifically granted by law,²² and has not applied the compromise of part-public and part-private status which he arrived at in the case of the Fleet Corporation. The TVA has conformed to the rulings of the Comptroller General so far as possible, although the Authority insists that such compliance is on a voluntary basis and that the TVA Act gives him no power to enforce his audit.²³

Customary corporate practice calls for a fairly large board of directors, meeting periodically for the formulation of policies and general oversight of the corporation's affairs in the interest of the stockholders. The TVA board, on the contrary, is composed of only three directors, who serve full-time at their posts, and who originally undertook not merely to

²⁰To the amount of \$50,000,000 for the construction of power properties, and an additional \$50,000,000 to assist public agencies in acquiring electric distribution systems.

²¹Quoted for unpublished TVA reply to Comptroller General's audit report for the fiscal year 1934.

²²For example, the TVA Act specifically exempts the corporation from civil service laws, and makes special provisions relating to purchasing which supersede the regular statutory requirements.

²³For a more complete discussion of this controversy and other aspects of the TVA's corporate status, see an article by the author, "The Tennessee Valley Authority as a Government Corporation," *Social Forces*, XVI (1937), 126-30.

formulate policies for the organization, but also to participate actively in the administration of its affairs. Each director was allocated responsibility for certain segments of the Authority's operations, with the board as a whole acting in a coordinating capacity and resolving possible conflicts of authority.²⁴ This arrangement, which gave the TVA three administrative heads, proved impracticable, and in 1937 the directors acted to divest themselves of their administrative duties by setting up the position of general manager for the corporation.

The TVA is not, like the corporations previously discussed, primarily engaged in rendering commercial services. Only a small proportion of its personnel is employed in the production and marketing of power, and its program is principally "governmental" rather than "proprietary" in nature. Consequently, corporate status has meant to the TVA something other than freedom to conduct a competitive business undertaking. Perhaps the chief effect of its corporate character has been to give this federal agency an autonomy, an independence, and a decentralized character particularly adapted to the TVA's regional character and purpose.

In this discussion it has been possible to do little more than indicate the administrative nature and characteristics of government corporations. The evidence presented, however, is sufficient to demonstrate the diverse roles which the corporate form of organization can assume. Such agencies may be practically indistinguishable from an ordinary government bureau or, at the other extreme, they may operate almost like a private business organization. Each corporation is affected by the circumstances of its creation, its corporate charter, the nature of its program, and the attitude of Congress and the Comptroller General. Oliver P. Field has proposed that some uniformity be brought into this situation by the enactment of a general statute under which all government corporations would be chartered. The statute would lay down the conditions under which such agencies might be used, regulate their financial structure, and define their

²⁴See M. E. Dimock, "Regional Factors in National Planning," *Report of National Resources Committee* (Washington, 1935), pp. 92-6.

powers and rights.²⁵ However, there has been no move toward such a statute, and corporate agencies will undoubtedly continue to be set up on an *ad hoc* basis whenever the government finds an unusual type of program or a special administrative situation which appears to justify a departure from the standardized forms and procedures of government administration.²⁶

²⁵O. P. Field, "Government Corporations: A Proposal," 48 *Harvard Law Review* 775 (1935).

²⁶The most recent proposals for government corporations include the Roosevelt-Norris plan for the establishment of seven regional planning agencies throughout the country, and Senator Bulkley's plan for a federal highway corporation to construct a system of transcontinental toll roads.

A STUDY OF MISSOURI ALMSHOUSES

T. C. PIHLBLAD

University of Missouri

Perhaps it is inevitable that when new systems of social legislation are being developed, they are often engrafted on the already existing scheme of laws and institutions. The result is often a patchwork of over-lapping and conflicting provisions, policies, and institutions, expensive to maintain and inefficient in operation. There are perhaps two reasons for taking stock of county almshouses or poorhouses at the present time. In the first place, those who have advocated the development of state systems of old age assistance have argued that such programs will make unnecessary the traditional county almshouse. In the second place, a considerable number of students are raising the question whether or not the county should continue to remain the basic unit for the administration of local rural government. In view of these facts, a study of rural almshouses seems worth while.

The data on which this report is based are the result of two surveys. The first, a study of the rural almshouse population in Missouri, was undertaken in 1933 by the Department of Rural Sociology at the University of Missouri, and was part of a Federal Civil Works Service project. This study included 94 rural almshouses. The second investigation was made through the Department of Rural Sociology in co-operation with the Rural Section, Division of Social Research, Works Progress Administration. The inquiry was extended to include 96 rural almshouses in the state. Data were obtained regarding the systems of operation and administration and with reference to the following characteristics of the almshouse population: number and composition of the population with reference to sex, age, race, and marital composition; reasons for admittance; length of residence; previous occupation; and present physical and mental condition. An attempt was also made to procure facts concerning the cost of operation and distribution of expenditures according to purpose. The results of the latter attempt however, were so unreliable that they will not be included in this paper.

The data were obtained largely on schedules through personal interviews by field representatives. Supplementary

information was also obtained from other sources such as the State Auditor's Office. Completed schedules and secondary data were assembled in the Department of Rural Sociology, where they have been tabulated and summarized. Simple statistical methods have been used in presenting the data.

ADMINISTRATION

As in most middle western states, the management of county institutions is vested in an elective board, known variously as "board of commissioners", "county supervisors", etc. In Missouri this body is called the board of "county judges" or the "county court". The term leads to some misunderstanding since the "county court" is not a judicial body, and the almshouse is not under the supervision of the courts as is erroneously stated in a recent report from the Bureau of Labor Statistics. In addition to direct responsibility of the county authority, some degree of supervision over these institutions is maintained by the State Eleemosynary Board, which in 1933 inherited most of the functions formerly exercised by the State Board of Charities and Corrections. Financial supervision is also exercised in a general way by the State Auditor, who receives annual financial reports from the county clerks.

Five district types of institutions are maintained as almshouses in Missouri. The most common type is a "county farm" on which all the inmates live. This plan is used in 88 of the 109 counties, with 88 per cent of all the inmates. A few counties maintain an institution without a farm; a few maintain a house and a farm separately. Twelve counties board out their charges to a neighboring county home for care.

Two systems of management are followed in the operation of these institutions. Under the first plan, a superintendent is hired by the county court on a fixed annual salary. This hired manager is directly responsible to the court, and through them, to the public for the economical and humane administration of the institution. Under the second, or lease plan, the "county farm" is leased to an operator who cares for the farm and furnishes maintenance to the inmates for a stipulated sum per inmate per month. A few "farms" are also leased at an annual rental to the highest bidder. The lessee agrees to furnish board for the inmates at a stated figure

per month, and is then allowed to keep any surplus which he may produce. In general, the lease plan in Missouri, as well as in other states, is gradually being abandoned. In its earliest reports the State Board of Charities and Corrections condemned this scheme as wasteful and likely to lead to inhumane administration. In its tenth biennial report in 1917, however, 31 counties were still reported as using the plan, and the Bureau of Labor Statistics in 1925 reported numerous cases of the contract system in Missouri. This study provided no statistical data on the matter, but numerous notes of field workers indicate that the plan is still in use.

Since efficient management of the institution depends on the character and qualifications of the manager and personnel, a word or two about this matter seems necessary. The statutes do not define the qualifications of the superintendent, except that the person selected is to be a "fit and discreet individual." In every county except one the superintendent was reported to be a political appointee, and, of course, is subject to dismissal whenever political complexion of the "court" changes. His chief qualification seems to be his ability as a farmer. Apparently little emphasis is placed on training or experience. Of the sample of thirteen almshouses studied intensively, ten of the managers had been farmers, one a butcher, one a retail merchant, and one a salesman. Only one had continued his formal education beyond the eighth grade. The superintendent is paid a salary ranging from \$50.00 per month in the smaller counties to \$100.00 in the larger ones. In addition, he also commonly receives full maintenance. This salary, however, commonly represents compensation for the services of his wife and other members of the family, since in the smaller institutions additional service is not provided. This is not true in the largest ones. The major part of the work of the superintendent has to do with the management of the farm rather than with the actual care of inmates, a duty which devolves largely on the wife, who may have the assistance of her children and of able bodied inmates. In view of the fact that the almshouse population contains the infirm aged, invalids, feeble-minded and insane, and other classes in special need of care, it would seem to require administration and management of rather specialized qualifications. That such superintendence cannot be obtained where salaries are low,

appointments political, where farming ability is the major requirement, and where the duties are onerous and never ending would seem to be self evident.

ALMSHOUSES AND ALMSHOUSE INMATES

Size of Almshouses. The typical Missouri Almshouse is a relatively small institution with few inmates. The average number of inmates in 1933 was 31.6; in 1936 it was 29.3. The median number were 26 and 24, respectively. The smallest institution contained only three inmates in 1933 and nine in 1935. Six almshouses had less than 10 inmates, and 36 per cent of them contained less than 30. Almost 80 per cent contained less than 45 inmates. Only three institutions had more than 75 inmates, but contained about 10 per cent of the total almshouse population of the state. These two places, however, had fewer inmates in 1935 than in 1933. The slight decline in the population may be due to the transfer of a number of insane patients to the state hospitals, when the cost of care to the county was reduced from \$18.00 per month to \$6.00.

As the above data indicate, most Missouri almshouses contain relatively few inmates, and probably share the defects found in such institutions the country over. They are expensive, inadequately equipped, ill adapted to care for all the types of cases which they receive, have little or no hospital facilities or special provisions for the care of mental cases, and are likely to be managed by unqualified and incompetent personnel. Lack of adequate information in this study makes impossible a comparison as to costs between the large and small institutions, but earlier studies have shown per capita inmate care to cost more and to be less adequate in the small than in the large almshouses. In addition, the number of inmates are so few in the smaller places that they attract little notice from the public, and there is little pressure to correct abuses when they develop.

Age composition. The data on age composition were derived from reports of superintendents or attendants at the institutions, and are probably subject to some error. This is indicated by the disproportionate number of inmates who were reported as of even numbered years, and for years which are multiples of five. As reported, however, inmates ranged in age from one year to 107 years. The average age was 65.2

years, and the median 68.2. Classified by eight year intervals we found the largest proportion of the total population between the ages of 65 and 80. Here we found 1349 cases or 47 per cent of the total. According to reports of the Census Bureau the proportion of almshouse inmates over 50 years of age has been steadily increasing for forty years. Their last available figure gave 18.9 per cent under 50. In Missouri the proportion was 17 per cent. The proportion under 70 years was just a little more than 50 per cent. From these figures it may be readily seen that old age, uncomplicated by other disabilities, is not the only factor which explains the presence of an individual in a Missouri almshouse. The matter of age composition will be referred to again in connection with some comments on the relation between our old age assistance laws and the almshouse.

A word with reference to the care of children in almshouses: It appears, from our data, that the maintenance of children in these institutions has been almost entirely discontinued. Only 23 persons were found below the age of sixteen. Of these, 17 were ten years of age or older. In most cases they were in residence only temporarily. In one case three feeble-minded children were with the mother in order, as the superintendent explained, "to keep the family together." In a few cases, the children were being temporarily cared for awaiting transfer to the institution for the feeble-minded.

Racial Composition. Negroes constituted 4.3 per cent of the almshouse population as compared with 6.2 per cent of the total population of the state. Such a comparison is hardly significant, however, since most of the colored population in Missouri is found in the larger cities, while only rural counties were included in this study. Only 29 almshouses contained any Negroes. In all except the southeastern section of the state the proportion of colored persons in almshouses exceeded their percentage of the county population. In the southeast section, however, the reverse was the case. In one southeastern county Negroes constituted 26.9 per cent of the total population. The percentage of Negroes in the almshouse population was 12.5 per cent. Similar conditions also prevailed in a number of neighboring counties. When the very low economic level of the Negro sharecropper in these counties is considered it seems reasonable to draw the inference that

he is discriminated against even in the matter of admission to the almshouse.

Sex composition. About two-thirds of the almshouse population were men. The 1935 study showed 68.1 per cent males and 31.9 per cent females, the ratio of the sexes being almost exactly the same as reported by the Census Bureau studies. In only ten institutions did the number of women exceed that of men. The reasons for the disproportionate number of men is not entirely clear. It may be that relatives are more willing to support women in their homes than men. It may also be true that "out door" relief is more readily granted to women than to men. It is also true that men predominated among the unattached and homeless parts of the population. Other reasons could also be suggested.

Marital composition. Over one-half (50.7 per cent) of the almshouse population studied had never been married. The proportion of single persons was five times higher than in the state's population for approximately the same age groups. More than forty per cent were widowed, while a little more than 3 per cent were divorced or separated from mates. In only 3.6 per cent of the cases did we find both husband and wife living together in the institution. The striking thing about this group is the large number who have never had family ties, as well as those who now lack them. The reasons for this are fairly obvious, although time does not permit their discussion here.

Occupational composition. The data on former occupations of inmates indicate that they came from the poorest paid lines of work, as well as those requiring the least skill. About three-fourths of the men reported themselves as engaged in farming or in common labor. Probably many of those reporting farming are to be classified as farm laborers. Among the women about half were reported as former housewives, and one-fourth as domestics. A negligible proportion of the total group came from occupations which require any special skill or training. About ten per cent were reported as having no occupation. The latter fact probably reflects the large number of feeble-minded, insane, crippled, and invalid.

Length of residence. An important matter is the relative mobility of the almshouse population. Are these places tem-

porary shelters for indigent persons, or are they more or less permanent homes for the incapacitated and aged? Fourteen per cent of the inmates had been in residence less than six months, while about one-fourth had been there less than a year. About half the inmates had been in the institutions less than three years. At the other extreme there were 53 cases who had spent more than 30 years in residence. One inmate had been in residence for 60 years. That the institutions are largely a temporary refuge seems to be indicated by the fact that the great bulk of the population had been there for a relatively short period of time. This is probably due to the high death rates in such groups, and also, probably partly due, to the practice of temporarily admitting transients and casual laborers. There is some evidence that these are repeatedly admitted, each time being counted as a new admission.

Physical and mental conditions of almshouse inmates. It has long been recognized that the county poor house is not the place for the care of insane, feeble-minded, and other defectives. It probably is also a rather inadequate place for the care of the crippled and the chronically ill. In light of these facts, attempts were made to determine the physical and mental condition of almshouse inmates, as reported by administrative officers and attendants at the institutions. Obviously these data are somewhat unreliable since they represent the estimate or diagnosis of untrained persons concerning the condition of their charges. In the 1933 study inmates were classified on the basis of their mental and physical condition at the time when the investigator collected the data. In the 1935 study they were classified as to "reasons for becoming a public charge." The latter data are the most reliable since no individual was counted in more than one category. According to the data collected 25.8 per cent of the inmates were reported as feeble-minded and 13.1 per cent insane. Undoubtedly many of the feeble-minded actually represented cases of senile deterioration, and might be placed in the insane category. This makes about two-fifth of the population mentally incompetent. That this conclusion is not far wrong is indicated by the results of a study of the National Committee for Mental Hygiene in 1920, when a substantial proportion of the almshouse population at that time was diagnosed by

competent psychiatrists as mentally disordered. In addition to these classifications, we found another fifteen per cent reported as physically incapacitated, and ten per cent as suffering some chronic ailment. About three per cent were blind or deaf. In only about one-fourth of all cases was old age alone given as the reason for commitment to the almshouse. Certainly it is safe to say that two-thirds of the Missouri almshouse population are physically or mentally incapacitated.

In this connection, the question might well be raised as to the reason for the care of such a large number of the insane and feeble-minded in almshouses. Comparing, by counties, the number of insane and feeble-minded in the state hospitals with those in almshouses, we find that almost one-fifth are still being cared for in the local institutions, and a few counties had more of them in their local almshouse than they had in the state hospitals. There are probably two main reasons for this. Many counties have found local care cheaper than state care. Before 1934 each county was compelled to pay \$18.00 per month for the care of an indigent patient in a state hospital. That many counties thought they could provide local care more cheaply is indicated in the field notes of several investigators (in the 1933 study), who reported sudden increases in certain almshouse populations due to transfer of insane cases from the state hospital. In 1935 the cost to the county for state care of the insane was reduced to \$6.00 per month. In spite of this reduction, however, many counties still persisted in local care. Perhaps local pride, desire "to patronize home industry", ignorance, and lethargy on the part of county courts were responsible. It is reported that many county courts are quite willing to commit applicants to the local almshouse, contending that since the institution has to be maintained in any event, a few more inmates are unlikely to increase the costs of the institution appreciably. Another factor which has accounted for the condition has been the inability of the state hospitals to take all the cases for which admittance has been sought. Until the recent building program, the facilities of these institutions have been taxed to the limit.

WILL OLD AGE ASSISTANCE REPLACE THE ALMSHOUSE?

One of the most common arguments heard in support of the adoption of old age pensions or assistance has been the contention that such plans would obviate the necessity for the almshouse. In light of the data presented above, such an optimistic view can be little more than a hope. Since the present Missouri law extends assistance only to those 70 years of age and older, we find immediately that more than half the population are eliminated on the basis of age. Can the other half be supported through the assistance law? To receive such aid the recipient cannot legally be an inmate of a public institution. Numerous instances are reported, however, where the law is being violated. (In some cases, relatives of almshouse inmates have been cashing checks of aged persons being supported in almshouses). Then the aged persons would have to set up a home of his own, find refuge with relatives, or make some kind of private adjustment. How many of those over 70 could make such adjustment? Of the 1366 inmates over 70, 631 were classified as mentally or physically disabled and in need of institutional care. This leaves a balance of 735 inmates, about one-fourth of the total population, who might be removed to old age assistance, although it is doubtful that all of them could qualify, or make individual adjustments if they could qualify. It should also be kept in mind that the average assistance grant in Missouri is still less than \$15.00. In light of these facts it seems rather doubtful that the county almshouses are likely to be emptied by the old age assistance program.

It should be pointed out, however, that if the almshouses are relieved of the care of the insane and feeble-minded through state institutionalization, and if the old age assistance program can meet the needs of the able-bodied aged, the county almshouses can become "infirmaries", as they are now called in some counties, and can be used primarily for the care of the chronically ill and incapacitated. If such plans are adopted the number of inmates per institution will be decreased beyond their already low level. Some counties will find their almshouses practically empty. (Two have been closed during the past six months). Under such conditions it should be less difficult to persuade counties to cooperate in the erection and support of district institutions serving a number of counties.

Such a plan is already in operation in two or three states, and Missouri already has legislation which would make possible its adoption here. Perhaps the eventually logical step will be the complete assumption of responsibility by the state and the creation of state institutions, distributed on a regional basis, for the care of the residually dependent who cannot be cared for through the other state programs.

NOTES FROM THE SOUTHWEST

Although certain persons at each institution have kindly consented to supply the editors of the QUARTERLY with news items concerning research projects completed or in progress, promotions in rank, and other information concerning their colleagues in the social sciences, contributions to this department are welcomed from any member of the Association who may have news items to report from time to time. Notes should be forwarded to the Editor-in-Chief at least six weeks before the publication date of each number of the QUARTERLY.

LOUISIANA

Louisiana State University—The Louisiana State University Press has just announced the publication of *Isaac Franklin: Slave Trader and Planter*, by Professor Wendall H. Stephenson of the History Department.

The Department of Government has recently been expanded and developed into a School of Government and Public Affairs. Professor Charles S. Hyneman, present department chairman, has been made director of the new school. Two curricula in public service will be offered in the reorganized division, one for foreign service and the other for public administrative service. Each will include the four-year undergraduate curriculum and a year's graduate study. One semester of supervised internship will be spent in some government office.

Dr. Herman Walker, a graduate of Duke University and since 1936 associated with the resettlement administration in Washington, D. C., has been appointed Instructor in the School of Government and Public Affairs.

NEW MEXICO

University of New Mexico—Professor Lansing B. Bloom, Associate Professor of History, has been given a leave of absence to study the material on Adolph F. Bandelier, noted Southwest ethnologist, preparatory to commemorating the centennial of his birth.

"Continuity in History: The Russian Mir," by Professor Benjamin Sacks was published in the spring issue of the *New Mexico Business Review*.

Mr. Carlos E. Castaneda, Latin-American Librarian at the University of Texas, taught courses in history during the

summer term. Mr. Russell Buchanan, Instructor in History at Stanford University, was also a visiting member on the history staff last summer. Professor Benjamin Sacks of the Department of History, was a visiting instructor at the New Mexico State College of Agriculture and Mechanical Arts during the summer session.

OKLAHOMA

University of Oklahoma—The Department of Anthropology and the Department of Sociology have been combined into a Department of Anthropology and Sociology. Dr. Willard Z. Park, formerly of Northwestern University, has been appointed head of the new department, and Professor of Anthropology and Sociology.

The School of Social Work of the University of Oklahoma was admitted to membership in the American Association of Schools of Social Work at the meeting of that Association in Seattle, Washington, June 29. The University of Oklahoma is one of nine state universities represented in the membership of the Association.

Miss Fern O. Boan has been appointed Associate Professor of Social Work, beginning September 1. Miss Boan was formerly a member of the staffs of the School of Social Service Administration of the University of Chicago and of the Florida State College for Women.

In 1942 the University of Oklahoma will celebrate its semi-centennial anniversary. Plans are being perfected whereby in that year there will be a series of lectures in various fields of learning. Scholars who are outstanding in the field of research and productivity will be asked to participate.

The University of Oklahoma Press will participate in this program by publishing scholarly productions from the faculty and alumni. Friends of the University and of higher learning are invited to participate in this semi-centennial celebration by making gifts, loans, and benefactions to aid in a program of building, scholarships, fellowships, and general culture.

Dr. Ralph H. Records, Associate Professor of History, has resumed his regular teaching duties after an extended illness.

Southern Plainsmen, by Dr. C. C. Rister, Professor of History, will be published in September by the University of Oklahoma Press.

Dr. Royden J. Dangerfield has been promoted from Associate Professor to Professor of Government.

Dr. Cortez A. M. Ewing is reading proof on *Personnel Study of the Supreme Court Judges, 1789-1937* to be published by the Minnesota Press.

Dr. Cortez A. M. Ewing has been promoted from Associate Professor to Professor of Government.

Dr. Oliver E. Benson has been promoted from Instructor to Assistant Professor of Government.

Occupational Guidance for Youth, by Dr. F. Lyman Tibbitts, Associate Professor of Psychology, has been published by the Harlow Publishing Company.

Mr. Clayton Gerken, graduate assistant in the Department of Psychology, has been appointed Student Counselor at the University of Minnesota.

TEXAS

Texas State College for Women—Mrs. Mattie Lloyd Wooten, Dean of Women and Professor of Sociology, addressed the Farmers Short Course at Texas A. & M. on "Raising Standards of Living" on July 14.

Dr. W. T. Watson, Professor of Sociology at Southern Methodist University, taught courses in Sociology at Texas State College for Women during the summer session.

Dr. George R. Poage, Professor and Director of the Department of History, died Tuesday, April 26.

Mr. P. F. Boyer, Assistant Professor in the Department of Economics and Business Administration, taught courses in Business Administration at Sam Houston State Teachers College during the summer.

Miss Joy Adams, Instructor in the Department of Economics and Business Administration, did graduate study at New York University during the summer.

University of Texas—Pursuant to University regulations, hereafter the School of Business Administration will have only half-time service of Dr. A. P. Winston, Professor of International Trade and "charter" member of its faculty.

"The bare facts as to formative influences in his career, and his influences upon his generation in return, are impressive. He was educated at home, at University of Wisconsin and University of Chicago, and received the doctorate at Cornell. Other graduate study was done at Johns Hopkins, Chicago, Berlin, and Leipzig Universities, and at Washington,

D. C. He has served on the faculty at University of Illinois, Ohio State University, Washington University, Imperial College of Peking, China, and since 1920 at the University of Texas as Associate Professor, Professor, and member of the Graduate School.

"His publications in leading American and British general and scholarly journals, as well as *Encyclopedia Americana*, have been contributions to the fields of labor, socialism, trusts, monopoly, tariffs, finance, economic theory, foreign trade, and international relations. Both in person and in official publications his membership has been active and fruitful in Southwestern Social Science Association, American Geographical Society, American Economic Association, and the Harris Institute of International Relations." (From a resolution submitted by a special committee at the University of Texas).

GENERAL

The Social Science Research Council has announced that Southern grants-in-aid have been awarded to the following persons for the year 1938-1939: Howard K. Beale, Professor of History, University of North Carolina, for a study of the life of Theodore Roosevelt; Richmond Croom Beatty, Assistant Professor of English, Vanderbilt University, for a biography of T. B. Macaulay; William Patterson Cumming, Professor of English, Davidson College, for a historic-cartographical study of the southeastern region of the United States; Luther Porter Jackson, Professor of History, Virginia State College, for a study of slavery in urban Virginia; William Sumner Jenkins, Associate Professor of Political Science, University of North Carolina, for a study of the amending processes of the Constitution of the United States; James Cecil Nelson, Associate Professor of Marketing, University of Tennessee, for a study of motor carrier regulation in the state of Tennessee; Benjamin U. Ratchford, Professor of Economics, Duke University, for a study of the debts of the American states; Fritz L. Redlich, Professor of Economics, Mercer University, for a study of American business leaders; and Maurice O. Ross, Associate Professor of Finance, University of Tennessee, for a study of state regulation and control of commercial banking in Tennessee.

BOOK REVIEWS

EDITED BY O. DOUGLAS WEEKS
The University of Texas

Foreman, Grant, *Sequoyah*. (Norman: University of Oklahoma Press, 1938, pp. 90.)

Foreman, Grant (editor and annotator), *Adventure on Red River. Report on the Exploration of the Headwaters of the Red River* by Captain Randolph B. Marcy and Captain G. B. McClellan. (Norman: University of Oklahoma Press, 1937, pp. xxxi, 199.)

Sequoyah is not a definitive biography of the great Cherokee Indian, George Guess, but is rather a brief account of his life and a collection of sketches concerning the man and his work. Among the various items appear accounts by Captain John Stuart of the Seventh Infantry, who saw much service in the Indian Territory; John Alexander, a merchant of Philadelphia, who visited the Indian Territory on a business trip; John Howard Payne; General Ethan Allen Hitchcock; and a Cherokee named the Worm, who related to the editor of the *Cherokee Advocate* an account of Sequoyah's last journey, a visit to the Cherokees in Mexico, in 1842, from which he never returned.

Beyond a doubt Sequoyah is one of the most extraordinary men in all history; "the only man in history," says Foreman, "to conceive and perfect in its entirety an alphabet or syllabary." Observing that white men had a great advantage over Indians in that they could record their ideas and transmit them great distances, Sequoyah set to work to design a similar system for his own people. His rare originality is evidenced by the fact that he did not attempt to use the methods of the whites but soon discovered that a syllabary rather than an alphabet must be designed for the Cherokees. His syllabary of some eighty-six characters, representing that many sounds, he worked out after many months of patient effort. Then he set himself to the more difficult task of persuading and teaching his people to use it. Progress was slow at first, but the prejudices of the people were overcome, and by 1825 the Cherokees had a literature. His method of writing seems to have been exceedingly simple. Indeed several informants vouch for the fact that many Indians became quite proficient in its use after a month or less of study. The syllabary was widely used, and thousands of Indians, who never learned even to speak English, read books and newspapers in this Cherokee print.

Because of the paucity of material probably no complete biography of Sequoyah will ever be written. In this little book Mr. Foreman presents the best and most authentic data that he has managed to gather in his broad investigation during many years. Only in a few instances does he give the reader the advantage of his own opinions and critical judgment. One such case is that of Sequoyah's paternity. His mother was an Indian woman of the Cherokee tribe, but who was his father? The author dismisses as unauthenticated and highly improbable the version of some writers that Sequoyah's father was an itinerant German named George Gist. "That the amazing genius of this remarkable Indian must have been sired

by a man of vastly superior qualifications is obvious," he states. Then he adds: "Such a man was Nathaniel Gist, friend of George Washington, who spent many years among the Cherokees in the capacity of hunter, explorer, and soldier." Although limitations of space prevent his setting forth the arguments, Mr. Foreman is convinced that this distinguished patriot, progenitor of many other distinguished Americans, was Sequoyah's father.

Randolph B. Marcy was a superb soldier and the greatest explorer of the South Plains country furnished by the United States Army. Furthermore, as a writer he was the equal of any soldier of his day, not excepting John Charles Fremont. Yet, Marcy is almost unknown even to the people who live today along the trails he beat out.

Mr. Foreman has, therefore, rendered a distinct service in reproducing Marcy's journal of his expedition to the sources of Red River, in 1852. The journal, made up 117 pages of the 320 pages and sixty-three plates in Marcy's official report. The complete report was published as United States Senate *Executive Document* No. 54, Thirty-second Congress, second session; and also as United States House *Executive Document* (unnumbered), Thirty-second Congress, first session.

The introduction by Mr. Foreman gives a glimpse of Marcy's early military service and some account of his other trans-Plains expeditions. Of especial interest is a short account of his expedition with General W. G. Belknap, in 1851, to aid in locating sites for forts along the trail Marcy had made from Dona Ana, New Mexico, to Fort Smith, Arkansas, in 1849. The official report of this journey with Belknap is not available in print. There is also supplied considerable information about the preparations for the expedition of 1852 that is not given in Marcy's report.

One who is acquainted with the topography and history of the country traversed by Marcy will understand the difficulties the editor had to meet in following the trail in terms of present-day geography. The greater part of it was unknown to white men and there are no records of other explorers with which Marcy's journal could be compared. The comparatively level surface of the country; the streams so difficult to distinguish the one from the others; the inaccuracies of Captain George B. McClellan's astronomical observations; and the fact that Captain Marcy seems to have prepared parts of his journal and map each independent of the other—all make it impossible to follow the entire route precisely. Because of his wide acquaintance with the Southwest Mr. Foreman has been able, nevertheless, to edit the document quite well.

RUPERT N. RICHARDSON

Hardin-Simmons University

McKenzie, Charles W., *Party Government in the United States*. (New York: Ronald Press Company, 1938, pp. xli, 597.)

Although textbook treatment of American political parties has never been very satisfactory since the great Ostrogorski became out-of-date, it has been more than a decade since a new writer appeared in the field. This is all the more remarkable in view of the fact that the course in political

parties is a standard offering of nearly all departments of political science. Mr. McKenzie's systematic survey, appearing in the Political Science Series of the Ronald Press, fills the lack in a highly satisfactory manner.

Following the practically traditional outline for textbooks on this subject, Mr. McKenzie begins his study with a discussion of the terminology and the functions of political parties, thereafter devoting a considerable portion of his book to a history of American parties. On the assumption that too many students "lack the historical perspective, and much of the classroom instruction is too theoretical" he has put special emphasis on this section, which comprises about one-fourth of the entire survey, and brings the story down to the results of the 1936 campaign.

One of the important advantages of new texts is the fact that they are usually up-to-date throughout. The revisor of an old text in political parties is subject particularly to the temptation of merely adding a section on the latest national elections, leaving the remainder of the book intact. The wealth of information uncovered by the Seabury investigation of the Tammany machine, for example, and the Fusionist campaigns to smash the venerable Tiger, are given full treatment for the first time by Mr. McKenzie, in the chapter on boss politics. Contemporary periodical literature has been used to illustrate the workings of party machines today, rather than historical studies of election frauds in another generation. Material drawn from the illuminating *Fortune* article on Chicago's Kelly-Nash machine, and descriptions of the Huey Long technique culled from *Collier's* give a freshness to the work that is all too seldom found in textbooks.

A valuable addition to the formal description of party history and organization is the chapter on party finance, an aspect of party history which is not often given its adequate place. Too frequently the topic is dismissed with a discussion of corrupt practices acts, with a few illustrative incidents involving excessive expenditures of campaign funds. Besides a thorough study of the financial administration of the major parties today, the author gives an analysis of expenditures that is enlightening as to the complexity of waging a national campaign nowadays. The unpaid telegraph bills of the Democratic party in 1934, for example, totalled \$27,687; unpaid radio bills, \$218,221. The *Congressional Record* has been exploited for estimates of party spending since 1860, and these statistics are also highly illuminative. The average college student in the party history course realizes that McKinley had considerable financial support in 1896, as compared with Bryan; but the significance of that factor is certainly enhanced in his mind by a comparative table, showing that the actual money spent in McKinley's behalf was \$16,500,000 as contrasted with \$675,000 for Bryan.

In his final chapter the author introduces the vast subject of pressure politics, sketching the history of pressure groups since the constitutional convention, and showing the methods employed by them in influencing legislation and administration. The value of the book would have been increased by a more thorough exposition of this phase of party activity, and it may be questioned whether an entire chapter might not well have been included on the party affiliations and political activities and interests of the labor groups in the United States.

Presidential election maps, specimen ballots, and extracts from platforms are given in the appendix, rather than being arranged throughout the book under the respective topics. The plan adopted by Mr. McKenzie in this regard seems to make the book more convenient for reference.

On the whole Mr. McKenzie's text is by far the best on the subject that has yet appeared; and is certain to find a wide acceptance for use in college courses in the field.

OLIVER E. BENSON

University of Oklahoma

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Wardell, Morris L., *A Political History of the Cherokee Nation*. (Norman: University of Oklahoma Press, 1938, pp. vi, 383).

This excellent history traces the political history of the Cherokees from 1838 to 1907. Beginning with the trying vicissitudes of their removal, the author traces their career down to their final absorption into the State of Oklahoma. In a work amply documented he points out the problems which this little nation faced in their new home. Deftly he handles the trying times of the Civil War and Reconstruction. One is impressed with the author's ability to present his story of the Cherokee Nation and at the same time to relate his account to the events going on in the United States.

Skillfully, he has delineated the portraits of John Ross, Jesse Bushyhead, E. C. Boudinot, Stand Watie, and other leaders. He has made a real contribution in the facts he presents about the chiefs, Lewis Downing and Charles Thompson. He has also thrown new light on the careers of Evan Jones and John B. Jones, the Baptist missionaries who wielded much influence among the full-blooded Cherokees for many years. The reviewer has noted a slip which occurs where the author states that Jesse Bushyhead was a member of a delegation elected by the National Council in 1866 to report at Washington, but in an earlier section of the book he has told of his death in 1844.

This seventeenth volume is a real addition to the *Civilization of the American Indian Series*. The University of Oklahoma Press is to be complimented upon the excellent format of this book. There are helpful maps. The pictures are carefully chosen and illustrate the text quite well. The index shows the result of painstaking labor. The appendices prove a real addition to this scholarly history. This volume will be looked upon as the definitive study of the subject and period covered.

A Political History of the Cherokees is a worthy companion volume to Dr. Angie Debo's *The Rise and Fall of the Choctaw Republic*, and to J. P. Brown's *Old Frontiers*. The reviewer expresses the hope that Dr. Wardell will bring out, in the near future, an economic and social history of the Cherokee Nation based upon the careful research which he has already carried out.

Even the casual reader will glimpse a picture of a society which has passed away forever. In the years to come he will remember the political institutions of this gifted people. The student will be encouraged to seek

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out the laws and constitutions of this small yet great nation. Embedded in the prose of this careful writer are found the political events which transpired many years ago. Here are described the political institutions which were the marvel of their contemporaries. Perhaps there is a lesson to be found for us today in the way the Cherokees solved their numerous and baffling problems. As we lay down this study we have a feeling of regret because we have reached the end of our delightful and profitable reading. We also have a feeling that much solid information has been compressed into *A Political History of the Cherokees*.

JAMES W. MOFFITT

Oklahoma Historical Society

Sombart, Werner, *A New Social Philosophy*. Tr. and edited by K. F. Geiser, (Princeton: Princeton University Press, 1937, pp. xii, 295.)

Werner Sombart's *Deutscher Sozialismus*, now made available for English readers under the title *A New Social Philosophy*, is one of a number of recent books which are representative of the idealists revolt against the materialism of our century. Werner Sombart, already well known as a sociologist and for his critical attack on Marxian Socialism in his *Der Proletarische Sozialismus*, carries his basic tenents to their logical conclusion in the present work. Viewing the contemporary age as one which, because of its overwhelming materialism and slavish devotion to economic standards, has lost all sense of spiritual values, he concludes that life for the modern man has as a result become meaningless since all attempts to relate human conduct to an objective, spiritual or moral norm have become impossible. Man, having lost his "world view" and the sense of his sublime dignity as a spiritual as well as a material being, wanders from place to place partaking without joy of one hedonistic excess after another.

To remedy this situation is the purpose of *A New Social Philosophy*. The means to be used are especially applicable to the German people, but their basic principles are capable of employment in all nations. The remedy offered is briefly a return to idealism in human relations. This necessitates as a *sine qua non* the recognition of the nation as the basic unit of society and the expression through it of the "folk spirit" of the people. Nation itself is defined in terms of blood (race) and land. The revival of old national customs and folk ways, the rejection of economic gain as the basis of human activity and the realization that the individual finds his proper function only in the organized national life, are the essential reforms which must be undertaken if man is to be saved from the monster of materialism. All things ultimately relate back to the nation, and the nation itself, independently of its members, exists as an objective entity in the realm of the spirit (geist). In the attempt to realize the nation as the "idea" alone lies the hope of human salvation.

The theory thus advanced is given the name "German Socialism", and the bulk of the book is concerned with the author's attempt to give this concept meaning by showing how radically it differs from such "false" theories as "Marxist", "Christian" and other contemporary forms of the

socialist movement. It is to be noted, however, that Sombart's "National" or "German" Socialism is not necessarily the theory of the Nazi party, but rather a statement of what that theory ought to be. Since "National" Socialism involves the conscious attempt to realize the peculiar national traits of a particular people it follows also that the movement will assume different forms in different lands, depending upon the nature of the national *Volksgeist* of the particular people. Hence there can be no talk of "internationalism" in the Marxian sense, for the particular "National Socialism" of one land cannot be transplanted into another. There can be no allegiance transcending national boundaries and the world of the future will be made up of culturally self contained nation-states.

The importance of the book is that it is a readable and scholarly exposé of the deeper implications of modern German thought. It enables us to understand the profound emotional and philosophical basis on which the Nazi movement in Germany is founded, and to realize that beneath the outward splendor of Hitler's Reich there lies a deep, idealistic *Weltanschauung* which aims at the regeneration of mankind by the rejection of economic materialism. After reading this book one can better realize how a political movement which contains many of these philosophical ideas was able to sweep a proud nation, deeply conscious of recent humiliations, into a frenzy of self-conscious exultation and into the blind worship of a "God-given" national leader. For a fuller understanding of the modern German view of race and nation, judaism and socialism, state and community, capitalism and internationalism, a reading of Sombart's book is indispensable.

H. MALCOLM MacDONALD

University of Texas

Wiley, Bell Irwin, *Southern Negroes, 1861-1865*. (New Haven: Yale University Press, 1938, pp. x, 366.)

The place of the negro in the social and economic structure of the Old South and his adjustment to new conditions after 1865 have been favorite themes of historical scholars since the turn of the century. Professor Wiley's volume, which was awarded the Mrs. Simon Baruch Prize in 1935, fills the gap and presents a vivid picture of the transition of the Southern negro from slavery to freedom in the war years. The study is organized into two parts of about equal length. The first, "Negroes in the Confederacy," considers the arrival of the "Yankees"; privations and privileges of slaves in wartime; their conduct and their labor on plantations and in industrial establishments; the domestic slave trade; religious life; the services of slaves as body servants, military laborers, and soldiers; and the demise of the "peculiar institution." The second, "Negroes under Federal Control," embraces the origin of Federal guardianship; controversies attending the change in official attitude toward the negro; Southern blacks as wage laborers; colored schools; and services of war-emancipated negroes in the Union army.

Professor Wiley has conscientiously sought to remain detached in the discussion of all of these controversial problems, and he has attained a high

degree of objectivity. He presents a wide variety of evidence on both sides of moot points, weighs it judiciously, and arrives at conclusions which are usually sound. He finds that "Negro labor, properly directed, was adaptable to diversified agriculture and to a varied industrial program" (p. 62). He concludes "that disorder and unfaithfulness on the part of Negroes were far more common than post-war commentators have usually admitted" (p. 83), and he scorns the idea that slaves could "have been transformed into loyal and enthusiastic fighters for the establishment of a Southern Confederacy and the perpetuation of the institution of slavery" (p. 162). In spite of "the attraction of wages, bounties, and other inducements, the work of the Negroes during the early years of the free-labor régime was most unsatisfactory" (p. 259). The reform impulse, the author asserts, "would have been revived and pushed with renewed zeal in an independent South; and, had the 'peculiar institution' survived the dangers which lay in the Constitution and those emanating from a slave soldiery, it is not altogether unlikely that ultimately it would have been 'reformed to death' by its friends" (p. 172).

Part I of the study is a revision of Professor Wiley's dissertation at Yale University, prepared under the direction of the late Ulrich B. Phillips, whose scholarly influence is apparent throughout the volume. A bibliographical note includes only the more important works consulted, but the footnotes indicate that the author has delved deeply into both printed and manuscript records. In a subject involving so broad an expanse of territory, he may be excused for missing some pertinent monographic studies, but his failure to use Mrs. Helen T. Catterall's *Judicial Cases Concerning American Slavery and the Negro* is a serious omission. One gets a much clearer conception of the plantation negro than of the town slave. The material on Federal control is largely confined to the Atlantic and Gulf states; especially does the movement of slaves from Arkansas and Missouri into Kansas receive slight attention. The few shortcomings that have been indicated do not detract seriously from the main purpose of the volume; it is a significant contribution to the scholarly historical literature on the War for Southern Independence. It may be added that, throughout nearly 350 pages of text, the author does not apply a name to the conflict of 1861-1865, although in the preface he alludes to it as the "War of Secession."

WENDELL HOLMES STEPHENSON

Louisiana State University

Sparlin, Estal E., *The Administration of Public Printing in the States*. (Columbia: The University of Missouri Studies, Vol. XII, No. 4, 1937, pp. 120.)

This timely study answers many of the questions which occur to persons using governmental reports and forms. Among other things, the study explains how multiplicity and inadequacy can exist side by side in the field of governmental reporting. In addition to the examination of available state printing reports, surveys, and other sources, first hand information

was obtained from forty states through personal correspondence, and field trips were made to ten states. From the analysis it is evident that the author is intimately acquainted with the every day operations of the printing business.

The ten chapters discuss in order the introduction, printing contracts, class system, individual job system, printing procurement procedure, printing organization, printing control, some elements of printing analysis, state production, and conclusions. In addition, Appendix A presents the biennial cost of printing in the states and Appendix B presents a summary of the printing systems in the 48 states. The study is illuminated at many points by descriptions of the various state printing agencies in action. Particular attention is given to realized and potential savings. For instance, it is shown how Massachusetts has reduced the state printing bill approximately 50 per cent, or \$325,000 annually, beginning in 1928. (p. 28.)

Significant conclusions are that the procurement of public printing should be centralized and that bids should be taken on individual jobs. Specifications should be prepared on each job, and compliance should be checked by careful inspection. Advantages should be taken of savings possible through standardization of forms, sizes, etc. Further, duplications of material should be eliminated through careful editing by a responsible authority.

The author believes that the printing agency should be headed by one individual rather than by a board. While procurement should probably be a function of the purchasing division, it is felt that a need exists for an editor or printing controller who is responsible to the chief administrator and who preferably is not attached to the procurement division. "This central printing control bureau, independent of both using and procurement agencies and responsible to the head of the administration, either directly or through a fiscal control department, could accomplish much toward a planned and efficient state publishing system." (p. 107.) Among other duties the control division should have charge of a central printing fund to which the printing costs of each department might be charged.

Concerning state ownership of printing facilities, the author concludes that excellent use can be made of a state-owned plant capable of handling 25 to 50 per cent of state needs. The plant should be subordinate to the printing agency. A plant of such limited capacity can be operated at peak capacity all year round, and it gives the state printing agency a real advantage in dealing with private contractors. This is true because highly competitive work can be contracted while less competitive work is given to the state-owned plant.

In the judgment of this reviewer, the study is thoroughly worth while. It is understandable, well illustrated, and carefully written throughout.

H. C. BRADSHAW

Agricultural and Mechanical College of Texas

Bakken, Henry H., and Schaars, Marvin S., *The Economics of Cooperative Marketing*, (New York: McGraw-Hill Book Company, 1937, pp. 563.)

Bakken and Schaars assert that there are five alternatives from among which must be chosen the method which will most effectively reduce the

cost of products purchased and increase the price of farm products sold. Having eliminated competition, monopoly, government regulation, and governmental distribution, for various reasons, it is urged that cooperation remains as the final possibility.

"The cooperative association resembles the private business corporation in its methods of operation. It differs from the capitalistic system, as typified by the modern commercial corporation, chiefly in its motives and internal organization. Cooperatives in the United States do not seek paternalism but the same fair treatment accorded other American business concerns by the government. The ideals of cooperativism are unlike those of socialism, communism, or fascism. Cooperativism is a synthesis of elements of several economic systems. It eliminates many weaknesses of other systems and prevents the extremes to which they go. Cooperativism is the 'via media, via amicabilis'."

As indicated by the title, this volume does not constitute a study in the actual technical operation or management of a cooperative enterprise. Rather, it is a philosophical examination of the history and nature of cooperation. There will be found a frank discussion of the reasons why cooperative marketing ventures have so frequently collapsed. (One cited reason being, lack of selective membership as a principle of operation.) The history of the British cooperative movement, of consumer type, is sketched from Toad Land to Imperial proportions, but consumer cooperation is incidental to agricultural cooperation in this presentation.

In outline, the book consists of a consideration of the nature of cooperation, a summary of the historical development of the field, a series of chapters on the economic philosophy of cooperativism, chapters on legal aspects of the problem, seven chapters on the functional relationship of cooperative organizations, an examination of the future possibilities and limitations of the cooperative movement, and an appendix which includes the Capper-Voistead Act and a sample membership agreement and contracts.

The authors, members of the faculty in agricultural economics in the University of Wisconsin, know what they want to say, and say it well. The book is very readable. There is no hysterical glorification of the "Middly Way", even though the authors leave one in no doubt as to their sympathies. It might be said that Bakken and Schaars believe in cooperativism as a principle, and in its usefulness as a practice, *when properly handled*.

The book has a definite organization, is free from padding, and, all in all, impresses the reviewer as the best thing in the field, as yet. It must be remembered that the authors are definitely sighting at the agricultural cooperative, and that the volume is built about that form of cooperation. It should be very useful for courses in cooperative economics, in institutions of higher learning, and particularly in agricultural colleges. The title may seem formidable, but this book should appeal to intelligent business men as a trade book, for there are few fields of economic action in which one finds more prejudiced discussions than in that of cooperation. Cooperativism is not a cure-all, it is fitted only to certain circumstances and conditions,

and it takes the same sort of hard work and intelligent direction to make a success of such a venture as is necessary in private business. The authors of *The Economics of Cooperative Marketing* seem to recognize this.

RONALD B. SHUMAN

University of Oklahoma

Siat, Una Bernard, *New Horizons for the Family*. (New York: The Macmillan Company, 1938, pp. 747.)

The chaotic state of modern family life has given rise to many endeavors in the field of social research during the past decade or two. Those who have been most interested in studying the family have been dismayed and confused by the wide variety of approaches, all following parallel lines which never seem to converge. Dr. Siat recognizes this problem, and in the introduction to her book states her chief purpose to be that of correlating and integrating the results gained through inquiries in the fields of history and anthropology, sociology and economics, biology and psychology. It sounds like a very ambitious attempt, but the author succeeds to an amazing extent in covering a tremendous number of subjects in all these fields in an orderly, unhurried manner. It is almost unbelievable that so much material can be included in one volume.

The book is long (nearly 800 pages), but there is no tiresome repetition and no "padding". It would be an extremely valuable textbook for a course on The Family, as it is not so much a treatise of the author's opinions, but a compilation of the thinking of nationally accepted authorities. After an introductory chapter on "Social Change and the Family", the book is divided into three parts: first, "The Family in Historical Perspective" in relation to social organization, religion, economics, sex, and education; second, "The Modern Family" as related to education, social welfare, child welfare, the status and occupations of women, population and birth control, and marital relations; and, third, "Home Life", that is, house-keeping, homemaking, children, and family education.

A glance through the index will reveal an impressive array of references from well known international leaders of thought in the various fields discussed, and it appears that not one of the modern contributors has been neglected. This should be a very valuable reference book, practically in the encyclopaedia class, for educators, social workers, physicians, attorneys, clergymen, and all who are endeavoring in the field of human relations.

The Epilogue is projected at the end with an idealistic note and poetic references which appear at first to be out of harmony with the preceding highly scientific chapters. However, it is perhaps a justifiable reminder that there is an unquestioned need for that spiritual quality which is so often neglected and yet which is, after all, the true essence of all endeavors in searching for new horizons for the family.

MARY EMILY HATCH

Settlement Home, Austin, Texas

Sutherland, Robert L., and Woodward, Julian L., *Introductory Sociology*. (New York: J. P. Lippincott Company, 1937, pp. 720.)

The authors of *Introductory Sociology* boldly state that they have written on the assumption that students are correct when they expect an introductory course in sociology "to be practical in the sense that it gives them a new knowledge of their own social nature and of the social world in which they live." In the judgment of this reviewer, they have been remarkably successful in producing a book that is both scientifically sound and interestingly written. Since such achievements are rare, the event is welcome. The work belongs to what might be called the "Park and Burgess tradition". As such, it is the third "revision" of that worthy model, and, in many respects, the best. Divided into six parts, the book is so organized that the instructor can open the course with the approach he considers preferable. Part One deals with "Man's Cultural Heritage"; Part Two, with "Man's Social Nature". Part Three treats of "Forms of Collective Behavior"; Part Four, of "Community and Social Organization". Part Five considers "Social Interaction"; Part Six closes the book with a discussion of "Social Change". What some one has called "the architecture of the book" is excellent. The table of contents clearly reveals what the reader may expect. The division into parts is helpful. The development of the material is logical. Even the transition from chapter to chapter is made in such fashion that the connection is plainly established through well-worded "transitional sentences." Another very desirable feature is the use of "case studies" as a means of introducing the materials of each chapter. Well chosen illustrations are always helpful and the book is replete with them. A fourth advantage is the unusually well-organized presentation of ecological data. The chapters on "Man's Social Nature" are also exceptionally good. Finally, the treatment of "Social Change" is as adequate as this reviewer has ever read.

Of faults there are few. One minor weakness is the excessive use of anthropological data in the discussion of culture. After all, there is a "sociological approach" to the study of culture and confusion often results from mixing the two conceptual frameworks. To many, it will seem that too little attention is given to the ecological and social processes. They are treated, but the book is organized in terms of structure rather than of processes. This, of course, is a matter of choice, and while one may differ with the authors' choice, it must be admitted that they have done well what they chose to undertake. Such faults are minor in comparison with the merits of the work. The book deserves wide-spread adoption.

REX D. HOPPER

The University of Texas

Parkins, A. E., *The South, Its Economic-Geographic Development*. (New York: John Wiley and Sons, 1938, pp. 528.)

It would be difficult to find a more informative book dealing with the economic development of the South than the latest contribution of the dean of southern geographers and Peabody College professor. A wide

scope is claimed for the book in the preface, namely, "an attempt to describe the civilization of the South, mainly in its economic-geographic aspects, and to interpret this civilization in terms of its regional setting and its historical antecedents." The table of contents lists the following major topic: natural environment, settlement, transportation, agriculture, manufacturing, and urbanization.

The South of the Census, including the debatable states of Delaware, Maryland, and West Virginia, is the area treated by the book. It might be noted that these states are not treated in Vance's *Human Geography of The South*, nor in Odum's *Southern Regions*. Unlike the latter, the South of Parkins does not extend west of Texas. Aside from differences in area considered there are wide contrasts in subject matter. Parkins goes much more thoroughly into the natural setting than Vance or Odum. Detailed historical treatment and abundance of statistical material make much of the book slower reading than the parallel chapters in Vance. Social conditions are of much less concern than in Odum. However, human factors, rather than natural factors, are considered the basis of southern unity.

Parkins recognizes deficiencies in southern culture springing from its agrarian background. He predicts continued industrialization and urbanization and foresees a rosier future based on a more varied economy. Market limitations are seen as the chief stays upon the anticipated industrial expansion, but it is pointed out, hopefully, that the population of the South is likely to continue to increase even after the population of the nation becomes stationary.

It might be noted that Parkins does not expect a revival of inland waterways. Rather, he takes pleasure in debunking the low costs of river and canal transportation.

Certainly well over two-thirds of the book is concerned with the states east of the Mississippi. Partiality for the Southeast results largely from the concern of the author for historical beginnings and the greater industrial activity of the Southeast. However, the author appears to have less interest in the Southwest and to be less familiar with it. Petroleum refining occupies a total of one page, the lead and zinc industry is not referred to, except by map, and the opening date of 1883 is given for Oklahoma.

Regional differences are not considered except incidentally elsewhere than in the sections on natural setting and agricultural regions. In view of the large area involved and the diversity of development more attention to regional synthesis seems desirable.

LESLIE HEWES

University of Oklahoma

Huebner, S. S. and Amrhein, G. L. and Kline, C. A., *Property Insurance*. Revised Third Edition (New York: D. Appleton-Century Company, 1938, pp. XXIII, 682.)

Professor Solomon S. Huebner's text on *Property Insurance*, first written in 1911, revised in 1922, and again in 1938, offers an authoritative, well organized presentation of the principles and practices in the fields of

fire, marine, and casualty insurance. Dr. Huebner, long a recognized authority in both life and property insurance, gives generous praise in the preface of the text to his departmental colleagues and co-authors, Drs. Amrhein and Kline, for their share in the revision of the new edition.

The thirty-nine chapters of material have been prepared chiefly as a text for university and college students but have many practical suggestions for the property owner who is interested in the three major phases of property insurance—fire insurance; marine insurance; and the special forms of property insurance, namely, automobile, corporate bonding, title insurance, credit insurance, and numerous miscellaneous forms.

It may be truly said that the book is not a mere revision of certain sections, but rather that the material has been revised and enlarged throughout. The first section on property insurance has been enlarged from 323 to 399 pages. The first section of the old book contains twenty-one chapters, while the first section of the new text has been expanded to twenty-four. Of the three new chapters, a chapter each is devoted to the following subjects: Types of Underwriters, Business Interruption Insurance, and Fire Prevention.

One secures the proper appreciation of the increasing importance of property insurance from a study of the revised material of the first chapter, which calls attention to the fact that the annual fire insurance premium exceeds one billion dollars. True it is that many tendencies, such as the one for the largest share of business to be written by stock companies, continue to prevail.

Part II of the book, *Marine Insurance*, includes 122 pages of the 663 pages of material. This is a fortunate allocation of space, since the question of marine insurance holds less real and practical interest for the typical reader of the text than Part I and Part III. Despite the limited space devoted to the topic of marine insurance, the fundamental principles, practices, historical development, and terminology are clearly stated.

The subject of marine insurance should have a historical interest for every student of insurance, since it is the oldest form of insurance and some of the principles developed there have served to establish principles governing other insurance fields. Because of its early historical significance, there would be some logic in placing the marine insurance subject matter as Part I of the text instead of Part II. Yet, the arrangement which is followed, that of placing the property section first, may have a stronger justification since it is the subject of major importance and the one of premier interest to the largest number of readers.

Part III of the volume consumes 138 pages of material in the development of the subjects of automobile, fidelity and surety bonding, title insurance, credit insurance, and miscellaneous forms of property insurance. This part of the book has added two chapters, one on automobile insurance and another on miscellaneous forms of insurance.

There has no doubt been more change in automobile policies and the miscellaneous forms of coverage than in either property or marine in-

surance. The five types of automobile coverage in 1936 had increased to \$477,000,000 of premium. It was not until 1936 that the uniform automobile liability policy form was adopted.

The new publication, as did the older editions, contains a well prepared table of contents of twelve pages. Also, at the end of the text material is located a carefully selected and classified bibliography of eleven pages. The bibliography is followed by a detailed index.

The reviewer has no adverse criticism to make of the material, but as one who has used the text for a number of years it is his thought that it would add to the facility and thoroughness of presenting the material if the authors had included a list of questions and brief problems at the end of each chapter. However, it must be finally said that a good book has been made better by the fact of its enlargement and by bringing the material up to date.

MONROE S. CARROLL

Baylor University

Alejandro López, *El Trabajo: Principios Fundamentales*. (London: Dangerfield Printing Company, 1938, pp. 216.)

Moret, Carlos, *Legislación, Jurisprudencia del Trabajo e Historia de los Movimientos Obreros en Inglaterra, Estados Unidos, Australasia y Canadá*. (Buenos Aires: "El Ateneo", 1931, pp. xii, 817.)

The little book by Lopez presents an interesting sociological and psychological analysis of labor, which distinguishes it rather sharply from invention, the hobby, and play, but admits that the old concept of labor as painful effort is now giving way under modern working conditions. The distinction here insisted upon is primarily economic and has reference chiefly to the methods of remuneration. Education and modern inventions have greatly increased the demand for labor, but has more than correspondingly facilitated its performance. The classical motivation to labor—economic gain—has also been modified, with the result that it has largely lost its unfavorable social status, since many people work in preference to idleness. Modern industry has created a vast number of types of labor, thus giving rise to a greater variety in industrial life. There is no set discussion of labor problems in this book.

Carlos Moret's work is a thorough compilation of the subjects included in the title, arranged historically and by subjects. It is a very useful handbook for the teacher, legislator, student, and administrative official. There are elaborate indices and citation tables for the guidance of the consultant.

L. L. BERNARD

Washington University

BOOK NOTES

William Bennett Munro in the third edition of *The Governments of Europe* (New York: The Macmillan Company, 1938, pp. v, 856) has brought up to date the government of each of the chief states of Europe. Among the new features may be mentioned the Russian Constitution (1936), the

German-Austrian Anschluss (1938), and the abdication of Edward VIII (1936). In addition, there are included a chapter on the art and science of government, which will be useful as a general introduction to the study of the democratic and dictatorial governments, and a short but adequate chapter on the government of Japan. The chapter on lesser governments deals with a few of the more pertinent facts about the governments of Switzerland, the Scandinavian countries, Poland, Czechoslovakia, and Yugoslavia. As in former editions Professor Munro has stressed the governmental systems of Great Britain and France. He justifies this on the ground that the book "has been planned on the assumption that the governments of the democratic types are not going to perish from the earth, and that autocracy is not the great divine event toward which the whole creation moves." (p. v.) However, he has expanded his treatment of Russia and Italy and has contracted that of Germany. It is regrettable that the space heretofore devoted to Switzerland has been so reduced.

J. C. E.

Your Taxes (New York: Doubleday, Doran and Company, Inc., 1938, pp. 280.) by William J. Shultz attempts to portray popularly a subject more intricate than the esters in chemistry or relativity in physics and, although it is little more than a mediocre attempt, the effort is commendable. The book is divided into two parts, the first designated as "General Considerations" and the second as "Current Tax Issues". The former presents a well studied yet simple and naively written discussion of taxation theory and the way practice affects the *a priori* reasoning of the philosophers. The chapter on "'Justice' in Taxation" is well written and should be required reading for many dogmatists who would solve our voluminous, complex, and perennial economic and political problems with one sure cure-all. Part II discusses income, sales, and other taxation subjects, with much of the material of current interest only. *Your Taxes* is a good book for persons who have had some training in taxation, but goes far wide of the mark in its attempt to be a "non-technical, non-propaganda book about taxes for every man—for you," as it starts out to be in the foreword.

E. E. S.

A History of the League of Nations (Atlanta: Turner E. Smith & Co., 1938, pp. vi, 445), by John I. Knudson, "attempts to set forth what the League has *done* and *how* it has *done* it." Part One, "International Politics," includes such topics as the origin and organization of the League and the work of the League in political matters.

Part Two, "International Legislation," emphasizes the non-political activities of the League, Part Three, "Semi-League Organizations," discusses the International Labor Organization and the Permanent Court of International Justice, and Part Four, "Appendices," contains the usual documents reprinted in books on the League. This volume is intended to be a simple and non-technical treatment, presumably for the general public. There are

no footnotes and few quotations. It is to be hoped that the book will assist in establishing a fairer perspective on the League system, especially by distinguishing its non-political from its political aspects.

C. T.

The Law of Nations: Cases, Documents, and Notes (New York: F. S. Crofts & Co., 1938, pp. xxix, 984) by Herbert W. Briggs, will be welcomed by teachers of introductory courses in international law, especially where such courses are given in departments of political science. The author has made a happy selection of cases, documents, and readings. These he has presented with excellent editorial notes, which not only elucidate questions but point the way to further investigation and additional sources. Furthermore, the author is to be commended for giving preference, wherever feasible, to decisions of international tribunals, although important cases decided in American, British, French, German, and Swiss courts are not neglected. All in all the book should assist materially in giving introductory students a broad knowledge of international law without their becoming unduly enmeshed in its technicalities.

C. T.

The distinguished Oxford historian, Sir Charles Oman, in his *History of the Art of War in the Sixteenth Century* (New York: E. P. Dutton and Company, 1937, pp. xvi, 784), continues his researches into the military strategy of five hundred years ago, which he began in his earlier work on the art of war in the middle ages. The slight attention given this subject by contemporary historians, in comparison to the bulk it assumed for example in Machiavelli's *History of Florence*, makes the work all the more valuable. The sixteenth century saw some exceedingly important developments in military tactics, including as it does, the Italian war, the campaigns of the Tudors, the wars of religion in France, the Dutch war of independence, and the Turkish attack on Europe. Pavia, Flodden Field, Nieuport, Rhodes, Lepanto—these are but a few of the dramatic military crises treated by the author. The liberal use of maps and charts, many from contemporary observers, makes the study both more interesting and more valuable as a contribution.

O. E. B.

Archivos de Medicina Legal e Identificacao; Leonidio Ribeiro, director (Rio de Janeiro: Imprensa Nacional, 1938, pp. cxvi, 335) is rich in original investigations, reports, and papers dealing with such subjects as civil identification, medical observation centers, pathology of delinquents, alcoholism and delinquency, child attendance at the movies, abandoned children, child labor, the work of various reform organizations, tendencies in legislation for child protection, homo-sexuality (causes and treatment), etc., etc. This is the most important source of information regarding rehabilitating and medical-social research activities in Brazil. Usually several numbers appear annually. It is published by the official Instituto de Identificacao.

L. L. B.

Anteproyectos Correlacionados (53 pp.); *Repavimentación de la Zona Intermedia* (19 pp.); *La Congestión del Tráfico* (182 pp.), by MARCELINO DEL MAZO (Buenos Aires: The Author, 1933) are excellent technical and explanatory studies of traffic problems in Buenos Aires, with proposed solutions. There are several traffic maps and diagrams illustrating the principles and proposals of the texts. Buenos Aires, a city of 2,000,000 people, with many narrow streets in the old part of town, offers many serious transportation problems. Its experience is consequently of value to those interested in city planning in this country.

L. L. B.

Cooperativas Escolares, by SANTIAGO HERNANDEZ RUIZ (Bogota: Imprenta Nacional, pp. 234) is an excellent and comprehensive study of the somewhat unusual student and school cooperation. It is not limited to the analysis of student cooperative book stores, but includes a great variety of formal and informal types of school cooperation in various countries. It is a very complete presentation of types, although there is no attempt at a full historical analysis. Forms of organization and administrative regulations occupy considerable space in the monograph.

L. L. B.

Consideraciones sobre la Economía Mundial (Buenos Aires: Compañía Impresora Argentina, 1936, pp. 30) presents in its thirty double column pages a discussion of the specialization and division of labor as it affects world economy and trade and makes a serious attempt at an analysis of the natural and technological facilities of different countries to produce economically. It also attempts a scientific discussion of the problems of the adjustment of national interests through commercial cooperation.

L. L. B.

Centro de Estudios Filosóficos (Universidad Nacional de La Plata, Argentina, 1937, pp. 104) contains commemorative addresses on Dr. Alejandro Korn, by Francisco Romero and others; an "Introduction to the Philosophy of Dilthey"; and a paper on "The Psychology of Structure", applied to physical objects, by Eugenio Pucciarelli. For some ten years Argentine philosophy has been much occupied with German metaphysics. Korn was its leading exponent in that country.

L. L. B.

Preocupaciones Argentinas, by JOSUE GOLLAN (Santa Fe: Universidad del Litoral, 1938, pp. 40) contains an address by the rector of this Argentine university discussing the present disturbed intellectual and political conditions in Argentina, with particular reference to fascistic attacks upon democracy, and the need of moral and social education in support of democracy.

L. L. B.

Algunos Aspectos de una Reforma Agraria Argentina, by Tomas Amadeo (Santa Fe: Universidad Nacional del Litoral; 1936, pp. 47) is a detailed analysis under ten divisions of the reforms needed in Argentine rural economy by one of the leading agricultural economists in Argentina. The discussion is fundamental and specific and moderately technical.

L. L. B.